

THE

1562/1301.

TRYALS

AND

Condemnation

OF

THOMAS WHITE, *alias* WHITEBREAD, Provincial of the *Jesuits* in
England,
WILLIAM HARCOURT, Pretended Rector of *London*,
JOHN FENWICK, Procurator for the *Jesuits* in *England*,
JOHN GAVAN *alias* GAWEN, And
ANTHONY TURNER,

ALL JESUITS and PRIESTS;

FOR

HIGH TREASON:

IN

Conspiring the Death of the

KING;

The SUBVERSION of the

Government, and Protestant Religion.

At the Sessions in the *Old-Bailey* for *LONDON* and *MIDDLESEX*, on
Friday and *Saturday*, being the 13th and 14th of *June*, 1679.

Published by Authority.

Dublin, Reprinted, 1679.

1568/1301

Condemnation

THOMAS WHITE, and WHITEHEAD, the vicar of the Rectory

WILLIAM WHITE, and WHITEHEAD, the vicar of the Rectory
JOHN WHITE, and WHITEHEAD, the vicar of the Rectory
AND ONE

TESTS

NOTICE

K I N G

OF THE

At the Session in the Old Hall for London and Middlesex, on
the 14th and 15th days of the 1st and 2nd of June, 1679.

continued by

Dublin, Reprinted, 1679.



TRIALS, &c.

On Friday the 13th. of June 1679. at the Sessions-House in the Old-Bayley, the Court being met, at which all the Judges of England were present. Proclamation was made of Silence and Attention whilst the King's Commission of Oyer and Terminer, and of Gaol-Delivery were openly read, and after the usual Proclamation of attendance upon the Sessions, the Court proceeded to call the Jurys impannelled, and to the Tryals of the Prisoners thus,

Cl. of Cr. **S**ET Thomas Whitebread, John Fenwick, William Harcourt, John Gavan, Anthony Turner, and James Corker to the Bar,

Cap. Richardson. They are all on,

Cl. of Cr. Thomas White alias Whitebread, Hold up thy hand.

John Fenwick, Hold up thy hand.

William Harcourt, alias Harrison, Hold up thy hand.

John Gavan, Hold up thy hand.

Anthony Turner, Hold up thy hand.

James Corker, Hold up thy Hand.

which they all severally did.

And James Corker presented a Petition to the Court, to this effect.

That about 8 months since the Petitioner Was committed for refusing to take the Oaths of Allegiance and Supremacy, that he had lately received notice to prepare himself for his Tryal against this present day, but that the same was afterwards contradicted, and that yesterday a Gentleman informed him from the Attorney General, that a Bill was found against him of High treason, and that he was to prepare himself for his Tryal thereupon accordingly; and soasmuch as the Petitioner is altogether ignorant of the matters charged upon him in the same, and by reason thereof, is absolutely surpris'd, and unprepared for his defence, and diverse Gaol-deliverys having been held since his first Commitment, and he never called to his Tryal; he doth humbly beseech their Honours, that he may not be Tried till the next Sessions, and that in the meantime, he may have Copies of such informations as are given in against him.

L. C. J. Mr. Corker, have you really any witnesses, without whom you cannot make your Defence.

Corker. No, my Lord I have none.

L. C. J. You do not understand my Question, do you want any witnesses, now, that you may have another time?

Corker. I am a stranger to the things charged upon me.

L. C. J. Can you not tell, whether you have any witnesses or no? the matter is this, both for you and all the rest of you, that there may be no exceptions; you are upon the Trial of your lives, and we upon our Oaths, and therefore I speak it, if so be you have any witnesses, because you pretend you are surpris'd, if you have really any, whereby you can make a better defence for your selves, then now, the Court will incline to your request; but if you have nor, then 'tis in vain to tarry.

Corker. My Lord, I verily believe I shall have Witnesses.

L. C. J. As for the copy of the Indictment it is never granted to any persons, and therefore must not be to you.

L. C. J. N. You must give us clear satisfaction, that you are real in your pretences, and must give us the names of your witnesses where they live, and let us know what they can say for you, that we may be satisfied; for such a general allegation as this, any man living may make.

Mr. Recorder. He was one of the ten that was appointed by the Council to be tried.

L. C. J. Why, you had notice a week ago,

Corker. But it was contradicted the next day.

Capt. Richardson. I heard *Mr. Clare* say that he should not be tried then.

Mr. Att. Gen. He had notice together with the rest, but he was not in the first Order of Council for the Trial of these persons, he sent to the Clerk to know who were to be tried and his name was left out; and so understood he was not to be tried. On Tuesday last I moved that he might be put into the Order, and so he was, and now there is an Order of Council for it; but he had notice a week ago as well as the rest.

Capt. Richardson. I gave them notice that all were to prepare for their Tryal as this day, and in order to that, I went to the Council, to see what Order was taken about it; and the Clerk shewed me their names, amongst which *Corker* was left out, and I told him *Corker* had notice of Trial, and therefore I desired I might have an Order for him too; they told me that there was no Order taken about him.

Mr. Att. Gen. My Lord, I would have all the Gentlemen have all the fair play in the world, therefore if he can satisfy your Lordship, that he can have any Witnesses that he hath not now, I am content his Tryal should stay to another time.

L. C. J. You shall hear the Indictment read, and there you will know what sort of Treason it is you are charged with, and after that you will make your answer, whether you have any witnesses.

Mr. Recorder. My Lord, it will be necessary, that I give your Lordship an account of one thing. On Saturday night there came a Gentlewoman to me on the behalf of all the Prisoners, and said there were some witnesses; that she was under apprehension would not appear for the prisoners, unless they had some order, her name she told me was *Ireland*, and she came in the name of all the prisoners, she said: I told her if she would bring me a Note of the witnesses names they did desire; they should have all the assistance the Court could give them for the getting of their Witnesses this day; but since that time I never heard of the Gentlewoman, or from the Prisoners.

L. C. J. *Mr. Corker*, you will do well to take notice, what you are charged withal, and afterwards tell us if there are any witnesses that can say any thing for your defence, at your Tryal for those matters.

Clerk of Cr. You stand indicted by the names of *Thomas White* in the Parish of *St. Giles in the Fields* in the County of *Middlesex* Clerk, otherwise called *Thomas Whitebread* of the same Parish and County Clerk, *John Fenwick* of the same Parish and County Clerk, *William Harcourt* of the same Parish and County Clerk, otherwise called *William Harrison* of the same Parish and County Clerk, *John Gavan* of the same Parish and county Clerk, *Anthony Turner* of the same Parish and County Clerk, and *James Corker* of the same Parish, and county Clerk.

For that you, as false Traitors against the most Illustrious, most Serene, and most Excellent Prince, Charles the Second, by the Grace of God, of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. your Supream and Natural Lord; not having the fear of God in your hearts, nor weighing the Duty of your Allegiance, but being moved and seduced by the instigation of the Devil, the cordial love, true, due and natural Obedience, which true and faithful Subjects of our said Sovereign Lord the King, towards him should and of right ought to bear; wholly withdrawing and devising, and with all your strength intending the peace and common tranquillity of this Realm to disturb, and the true Worship of God within this Kingdom of England, used and by the Law established, to overthrow and the Government of this Realm to subvert, and Sedition and Rebellion within this Kingdom of England to move, stir up and procure, and the cordial love and true and due obedience, which true and faithful subjects of our said Sovereign Lord the King, towards him should, and of right ought to bear, utterly to withdraw, put out, and extinguish, and our said Sovereign Lord the King to Death and final Destruction to bring, and put, on the four and twentieth day of April, in the thirtieth year of the Reign of our said Sovereign Lord, King Charles the second, at the parish of St. Giles in the Fields, in the County of Middlesex aforesaid; You the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner and James Corker, with diverse other false Traitors subjects of our said Sovereign Lord the King, to the Jurors unknown, falsely, subtilly, advisedly, maliciously and traiterously did purpose, compass, imagine and intend Sedition and Rebellion within this Kingdom of England, to move, stir up and procure, and a miserable slaughter among the subjects of our said Sovereign Lord the King, to procure and cause, and our said Sovereign Lord the King of his Kingly State, Title, Power and Government of his said Kingdom of England utterly to deprive, depose, cast down and disinheret, & him our said Sovereign Lord the King to death and final destruction to bring, and put, and the Government of this Kingdom of England & the sincere Religion of God within the same, rightly & by the Laws of the same established, at your will & pleasure to change & alter, and the State of this whole Kingdom of England, through all its parts well instituted & ordained, wholly to subvert and destroy, and War within this Kingdom of England against our said Sovereign Lord the King to levy: And to accomplish and fulfil your said most wicked Treasons and traiterous imaginations & purposes; You the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner and James Corker, and other false Traitors against our said Sovereign Lord the King, to the Jurors unknown, the said four and twentieth day of April, with Force and Arms, &c. in the Parish aforesaid, and County aforesaid, falsely, maliciously, subtilly, advisedly, devillishly and traiterously did assemble, unite and gather your selves together, and then and there falsely, maliciously, subtilly, advisedly, devillishly and traiterously did consult, consent and agree our said Sovereign Lord the King to Death and final Destruction to bring and put, and the Religion of this Kingdom of England, rightly and by the Laws of the same established, to the Superstition of the Romish Church to change and alter, and the Government of this Kingdom of England to subvert; and that one Thomas Pickering and one John Grove should kill and murder our said Sovereign Lord the King, and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, James Corker and other false Traitors against our said Sovereign Lord the King, to the Jurors unknown, should therefore say, celebrate and perform a certain number of Masses, then and there amongst your selves agreed on for the soul

of the said Thomas Pickering; and for that cause should pay to the said John Grove a certain sum of money then and there amongst your selves agreed on; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner and James Corker and other false Traitors to the Jurors unknown, in further prosecution of the Treasons and traitorous Consultations and Agreements aforesaid, afterwards the said four and twentieth day of April, at the Parish aforesaid, in the County aforesaid, falsely, subtilly, advisedly, maliciously, devilishly and traitorously did severally each to the other engage your selves, and upon the Sacrament traitorously swear and promise to conceal, and not to divulge the said most wicked Treasons and traitorous compassings, consultations, and purposes aforesaid amongst your selves, had traitorously to kill and murder our said Sovereign Lord the King, and to introduce the Romish Religion within this Kingdom of England, and the true reformed Religion within this Realm, rightly and by the Laws of the same established; to alter and change; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt alias Harrison, John Gavan, Anthony Turner and James Corker and other false Traitors, to the Jurors unknown, in further prosecution of your said Treasons and traitorous intentions and agreements aforesaid, afterwards the said four and twentieth day of April, at the Parish aforesaid, and County aforesaid, falsely, subtilly, advisedly, maliciously, devilishly and traitorously did prepare, persuade, excite, abet, comfort and counsel four other persons to the Jurors unknown, subjects of our said Sovereign Lord the King, traitorously our said Sovereign Lord the King to kill and murder, against the Duty of your Allegiance, against the Peace of our Sovereign Lord the King, his Crown and Dignity, and against the form of the Statute in that Case made and provided.

How sayst thou Thomas White alias Whitebread, art thou guilty of this High Treason whereof thou standest indicted, or not guilty?

Whitebread. My Lord, I desire to speak one word; I am advised by Council, and I may, and ought to represent it to this Court for not only my own life, but the lives of others of his Majesties Subjects, are concerned in it. That upon the 17th of December last, I was tried upon the same Indictment, the Jury was impannell'd and called, I put my self into the hands of the Jury, and the Evidence was brought in and examin'd, particularly against me, and was found insufficient, so that the Jury was dismissed without any Verdict; I humbly submit my self to your Lordships and this noble Court, whether I may not have Counsel in this point of Law, to advise me, whether I may and ought to plead again the second time, for according to Law, I am informed, no man can be put in jeopardy of his Life the second time, for the same cause.

Lord Ch. Just. You say well Mr. Whitebread.

Whitebread. I speak it not for my sake only, but the sake of the whole Nation, no man should be tried twice for the same cause, by the same reason, a man may be tried twenty or a hundred times.

Lord Ch. Just. You say well, it is observed Mr. Whitebread; but you must know; that you were not put in jeopardy of your Life for the same thing; for first the Jury were discharged of you; it is true, it was supposed when you were indicted, that there would be two Witnesses against you, but that fell out otherwise, and the Law of the Land requiring two Witnesses to prove you guilty of Treason, it was thought reasonable, that you should not be put upon the Jury at all, but you were discharged, and then you were in no jeopardy of your Life.

Whitebread. Under favour my Lord, I was in Jeopardy, for I was given in charge to the Jury, and 'tis the case of *Sayer*, in 31. *Eliz.* he was indicted for a Burglary committed the 1st. of *August*, and pleaded to it, and afterwards another indictment was preferred, and all the Judges did declare, that he could not be indicted the second time, for the same fact, because he was in Jeopardy of his life again.

Lord Ch. Just. Surely, you were not in Jeopardy, and I'll shew you how you were not, suppose you had pleaded, and the Jury were sworn.

Whitebread. They were so in my case.

Lord Ch. Just. 'Tis true they were, but supposing that presently upon that, some accident falls out, a Witness is taken sick, and be feign to be carried away, or for any reasonable cause, it should be thought fit by the Court to discharge the Jury of it, that they should not pass upon your life, are you in Jeopardy then?

Lo. Ch. Just. North. I would have you be satisfied with reason, and the course of Law that other mens lives are under, as well as yours. The Oath the Jury take, is that they shall well and truly try, and true deliverance make of such Prisoners, as they shall have in charge, the charge of the Jury is not full, till the Court give them a charge at the last, after evidence had, and because there was a mistake in your case, that the evidence was not so full as might be, the Jury, before ever they considered concerning you at all, they were discharged, and so you were not in Jeopardy, and I in my experience know it to be often done, and tis the course of Law, the Clerks will tell you tis frequently done here and at other places, and this is not the same Indictment, and it contains further matter, then that you pleaded to before. And then if you will make this Plea good that you go upon, you must alledge a Record, and shew some Record to make it good, and that cannot be, because there is none, & so it will signify nothing to you, as you have pleaded it.

Whitebread. I desire the Record may be viewed, it remains with you, I do only present this to your Lordship and the Court, and desire I may have Counsel.

L. C. J. No, nor all, there is no entry made of it.

Whit. I desire that Counsel may advise me, for I am advised, that according to the Law of the Land, I ought not to plead again, & I hope your Lordships, will be of Counsel for me.

L. C. J. Look you, Mr. *Whitebread*, there is no entry made upon it, and the reason is because there was no Trial, and there was no Trial, because there was no Condemnation or Acquittal, if you had been, then you had laid something.

Whitebread. That is my ask is, whether I ought not to be condemned or acquitted.

L. C. J. No, it is in the discretion of the Court. For if a man be indicted for murder, and some accident should happen, (when the Witnesses come to prove it) that he should be taken ill, and so be carried away, should the murderer escape?

Whitebread. That is not my case, you may do as you please.

L. C. J. But we shew, that it is in the discretion of the Court to discharge the Jury upon such accidents, and then the party is not in Jeopardy.

Whitebread. I have onely pray'd your Lordships discretion in this.

L. C. J. You ought to plead, and must plead.

L. C. J. North. I suppose if any of my Brethren are of another Opinion, then what we have expressed, they would say so.

Court. We are all of your Opinion.

L. C. J. All the Judges of England are of the same Opinion.

Mr. Record. 'Tis the constant practice.

L. C. J. 'Tis frequent in all places, it is no new thing.

Whitebread. My Lord I am satisfied.

Cl. of Cr. Thomas White alias *Whitebread*, art thou guilty of the High Treason whereof thou standest indicted, or not guilty? *Whitebread*. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tryed? *Whitebread*. By God & my country.

Cl. of Cr. God send thee a good deliverance. *John Fenwick*, art thou guilty of the same High Treason, or not guilty? *Fenwick*. Not guilty.

Cl. of Crown. Culprit, How wilt thou be tried? *Fenwick*. By God and my Country.

Cl. of the Crown, God send thee a good deliverance.

Fenwick. I was tried before with *Mr. Whitebread*, our case is the same, the only reason, why (I presume) we were not proceeded against, was because the second witness declared he had nothing to say against us, that was *Mr. Bedlow*, who said, as to *Mr. Whitebread* and *Mr. Fenwick*, I have nothing to say against them; if he had given the same Evidence against us, as he had done against the rest, we had been condemned, and had suffered; and so I suppose we ought to have been discharged.

L. C. J. No, it was not reasonable you should be discharged, it remains in the discretion of the court, not to let a man, that is accused of a great and capital crime escape, if there be one witness that swears expressly: do you think it reasonable such a man should go scotfree, though there wanted two that the Law requires? You were not in danger, your lives were not in Jeopardy.

Fenwick. My Lord, we were in the same danger with those Three that suffered.

L. C. J. No, we never let the Jury go together to consider whether you were guilty, or not guilty, we did prevent your making your defence, because we thought it not a sufficient Charge.

C. of C. William Harcourt alias *Harrison*, how say'st thou, art thou guilty of the high Treason whereof thou standest indicted, or not guilty? *Harcourt*. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried? *Harcourt*. By God and my country.

Cl. of Cr. God send thee a good deliverance. How say'st thou, *John Gaven* alias *Gaven*, art thou Guilty of the same High Treason, or not Guilty? *Gaven*. Not Guilty?

Cl. of Cr. Culprit, how wilt thou be Tryed? *Gaven*. By God and my country.

Cl. of Cr. God send thee a good deliverance. How say'st thou *Anthony Turner*, art thou Guilty of the same High Treason, or not Guilty? *Turner*. Not Guilty.

Cl. of Cr. Culprit, how wilt thou be Tryed? *Turner*. By God and my country.

Cl. of Cr. God send thee a good deliverance.

L. C. J. *Mr. Corker*, you have heard the Indictment read, what it consists of, a Traiterous endeavour to subvert the Government, to Murther the King, to change the Protestant Religion into Popery; if you have any witnesses that can be serviceable to you as to these matters, name who they are, and where they live; if you cannot, you had as good take your Tryal now, as at another time.

Corker. I not only have no witnesses ready, but there are substantial circumstances, which peradventure may arise, which may induce your Lordship to believe me innocent, and therefore I humbly beg, I may stay some short time to consult with those that are better skill'd in the Law than I am.

L. C. J. What do you mean to have, counsell assigned you?

Corker. My friends, my Lord.

Lord Ch. Just. Every man knows his own case, you have been bred a Scholar, and so you cannot be so ignorant as other men, you can tell whether you have any Witnesses that you think are material for your defence.

Corker. That day of the 24th of *April* spoken of in the Indictment, I truly and really believe I was not in Town that day; but I cannot positively prove it, because I heard not of it before.

Lord Ch. Just. Is there any body that can testify where you were that day? can you name any one?

Corker. Ye, I believe I can name one, and that is one *Alice Gatton*, that is now 30 miles out of Town at *Tunbridge*, who can prove where I did go about that time.

Lord Ch. Just. He tell you what, if my Brothers will, this woman you suppose can say something for you, we will respice your Tryal for to day, send some body for her, and we will Trie you to morrow.

Lord Ch. Just. North. Or any other Witnesses, for as to this 24th day of *April* it is known to all the world to have been the day of the Consult. But because you pretend a surprise, I must tell you, that *Mr. Attorney* sent you notice with the rest; but because you might be led into another opinion that the Council did not order it, you have the favour to be put off till to morrow; Get your Witnesses ready if you can.

Lord Ch. Just. If you have any other Witnesses, or desire any order for their appearance, let us know it.

Corker. I desire I may have liberty to have my Tryal put off till *Monday*.

Lord Ch. Just. North. No, it cannot be, *Monday* is the Assogin day, and then the Commission will be out.

Lord Ch. Just. Call the Jury.

Cl. of Cr. Thomas White alias *Whitebread*, hold up thy hand. (and so as to the rest.) You the Prisoners at the Bar, those men that you shall hear call'd and personally appear, are to pass between our Sovereign Lord the King and you, upon Tryal of your several lives and deaths; if therefore you or any of you will challenge them, or any of them, your time is to speak unto them as they come to the Book to be sworn, and before they be sworn. Call *Sir Philip Matthews*.

Whitebread. We Challenge him my Lord, that there may not be any further trouble, it is our general Petition, that none of those that were for any of the former Tryals may be of this Jury, they having already pass'd their Judgment upon the Evidence they have heard.

Lord Ch. Just. You may Challenge them. And therefore (speaking to the *Clerk* of the *Crown*) dont take any that were upon the last Jury for this cause.

Gavan. Nor any of the former Juries; we do this that we may avoid giving your Lordship any farther trouble, because if we should stay upon particulars we should too much trouble the Court.

Lord Ch. Just. North. Look you, I will tell you by the way, you have the liberty to Challenge preemptorily so many. All we can do, is to give direction to the Clerk, if he do not pursue it, we do not know them, we can't tell, you must look after that.

Mr. Recorder. You have the Books, wherein are notes of all their names by you.

Then The Jury that were Sworn, were these Twelve.

JURY.

Thomas Harriott.

William Gullston.

Allen Garraway.

Richard Cheney.

John Roberts.

Thomas Cast.

Rainsford Waterhouse.

Matthew Bateman.

John Kaine.

Richard White.

Richard Bull, and

Thomas Cox.

Cl. of Cr. *Cryer*, count these *Thomas Harriott*,

Cryer. One, &c.

Cl. of Cr. *Thomas Cox*.

Cryer. Twelve, good men and True, stand together and here your Evidence. Then the usual Proclamation for Information was made, and the Jury-men of Middlesex Summon'd and not Sworn, were dismiss'd till next morning eight of the Clock,

Cl. of Cr. *Thomas White* alies *Whitebread*, hold up thy hand, (and so to the rest) You Gent'emen that are sworn, look upon the Prisoners, and hearken to their Cause; they stand indicted by the names of *Thomas White*, &c. (put in the indictment *Mutatis Mutandis*) and against the form of the Statute in that case made and provided. Upon this Indictment they have been Arraigned, and thereunto have severally pleaded not Guilty, and for their Tryals have put themselves upon God and their Country, which Country you are. Your charge is to enquire whether they, or any of them are Guilty of the high Treason whereof they stand Indicted, or not Guilty. If you find them, or any of them Guilty, you are to enquire what Goods or Chattels, Lands or Tenements they had at the time of the High Treason committed, or at any time since; If you find them or any of them not Guilty, you are to Enquire whether they fled for it; if you find that they fled for it, you are to Enquire of their Goods and Chattels as if you had found them Guilty; If you find them not Guilty, nor that they nor any of them fled for it, say so and no more, and hear your Evidence.

Then Mr. Belwood, of Counsel for the King in this cause, open'd the Indictment thus:

Mr. Belwood. May it please your Lordship, and you Gentlemen of the Jury.

The Prisoners at the Bar, *Thomas White* alias *Whitebread*, *John Fenwick*, *William Harcourt* alias *Harriott*, *John Gavan* and *Anthony Turner*, together with *James Corker*, stand Indicted of High Treason; 'tis charged in the Indictment, That the 24th of April, in the 30th year of the King that now is, These persons, with other Traitors unknown, did purpose and conspire to stir up sedition and Rebellion: to cause a miserable slaughter of the Kings Subjects; to depose the King of his Government, and bring him to death; and to change the Government and Religion by Laws established, and to Levy war against the King. And 'tis further charged in the Indictment, that pursuant of this intention of theirs, and the better to bring it to pass; They did Assemble, Consult and agree, First, to bring his Majesty to death, to Murther the King, and thereupon to change the Religion Established by Law, to the Superstition of the Romish Church, and to subvert the whole Government; and it was agreed that *Pickering* and *Grove* should Murther the King, and that therefore *Whitebread*, and the rest of the Persons Indicted, should say a Number of Masses for the Soul of *Pickering* And *Grove*, for this piece of service, was to have a Sum of Money. And the Indictment says further, that these persons did take the Sacrament to commit this Treason with more secrecy; and that they did likewise Prepare, Excite, Abet and Counsel Four other unknown Persons to kill the King at *Windsor*. All these Facts are said to be done Advisedly, Maliciously, Traitorously and Devilish'y, and against their Allegiance to the King. To this they have pleaded Not Guilty; if the Kings Evidence prove it, you are to find it so.

And then Sir Cresswell Levinz, one of the King's Learned Council in the Law, proved the charge thus,

Sir Cr. Levinz. May it please your Lordship, and you Gentlemen of the Jury

The Prisoners at the Bar, by Persuasion of Papists, by Order and Command of the Council

Priests. By the Law of the Land, viz: By a Statute made the 27th of Eliz. They are all Guilty of Treason for being Priests, and they might be Tryed as such, and ought to dye for it, but that is not the Fact that they are Charged with, nor will they have the satisfaction to say that they suffer for their Religion; No, they are charged with a Treason of a blacker and darker Nature. And I must tell you, that it is now almost 100 years ago since that Statute was made against Priests coming into England, yet Examples have been very rare that any of this sort of Men have dyed for their Religion, within that Queens time, or any of her Successors; yet they have dyed upon worse accompts, and upon such accompts as they are now brought to this Bar for. Such is the difference between their Religion and Ours, they have been suffered to live here under a Law by which they ought to dye. They kill the Protestants by Thousands, without Law or Justice, witness their Bloody doing at Mirendol, Their Massacre at Paris, Their Barbarous cruelty in Irecland, since the year 1640. And those in Piedmont since 1650. But these are not the crimes they are charged with, they are not accused for their Religion, but for the blackest and darkest Treason that men can be charged with. They are charged with an endeavour to Murder the King, under whose protection they lived, This murder of the King hath been carried on in the Design of it, with all the malice and Resolution that can be from the first time that we can give you an account of it, which was the 24th. of April 1678, When these persons and several others, did first Assemble about other masters of their own, and among the rest to Murder the King: there they came to Resolution that it should be done, and persons were appointed to do it, these were Grove and Pickering, who have been Executed for it; They were to kill the King in St. Jame's-Park but it pleased God, that the Flint of the Pistol failed, to which we are more beholding than to them that he escaped that time. They were not satisfyd with that, but they send down Four Butchers to murder him at Windsoer, who being disappointed, they sent down Others after that to Murder him at New-Market; and when all these failed, they had Recourse to that Treacherous and Unmanly way of Poysoning him, and hired one so to do, and they did not only intend to Murder the King, but to make it good by force when they had done. They intended to raise an Army; they had got Commissions to several persons in the Kingdom to command these Forces. They designed to raise 50000 men to maintain the Injustice when then they had done it. And that was not all, they had a recourse to Foreign assistance, and depended upon Foreign succours, if they were not made good at home. Gentlemen, they have been disappointed in all these things; they had an intention further (as I find it in my brief,) to make a general Massacre of all Protestants here. A thing that they have done, and we have heard of abroad, but thanks be to God, we never knew it Experimentally at home. And I hope God that hath preserved us hitherto, will preserve us still.

The mercy these Men have met with, in being suffered to live under the danger of the Statute, by which they might have justly dyed, hath not prevailed upon or bettered them at all, but been turned into Monstrous Ingratitude, and made them more desperate than other people would have been. Gentlemen, when all this is opened, I must tell you, if these Persons be innocent, God forbid they should suffer, but if they be Guilty, surely they are not fit to live among Men: And truly if they be Guilty, they do not only deserve to dye, but to dye a more Cruel and miserable death then either the mercy of our Prince, or the moderation of our Law hath provided for such Offenders. I shall detain you no longer but will call the Witness, and then you shall Judge whether they be Guilty or not. And we begin with Mr. Oates.

Who was Sworn.

Sir Cr. Leving. Pray what can you say to these Gentlemen? begin with Mrs.

R.

Lord

Lord Ch. Just. Mr. Oates, apply your Evidence as distinctly as you can to one Person at first, unless where the matter will take in all, or more then one of them.

Dr. Oates. My Lord, I have Evidence I desire may be called in, I shall have occasion to use them.

Gavan. It may be inconvenient. He may instruct his Witnesses.

Lord Ch. Just. North. No, he shall not, for we will take care of that; But name your Witnesses.

Dr. Oates. There is Sir Richard Barker, Mr. Walter a Minister, Mrs. Mayo, Philip Page, Mr. William Smith, and one Mr. Clay, Mr. Butler, Mrs. Sarah Ives.

Mr. Just Atkins. Take a Note of their Names, and send for them.

Lord Ch. Just. Now, Mr. Oates, go on with your Evidence. And when there is occasion to make use of these persons, they shall be call'd.

Dr. Oates. The prisoner at the Bar, Mr. Whitebread, was made & constituted Provincial so as it was publickly known to us in the month of December last was 12 month, & he did Order by Vertue of his Authority one Father George Conyers, to preach in the Sodality of the English Seminary, on the Holyday which they call St. Thomas of Canterbury, i. e. Thomas of Becket's day, in which there was Order given that Mr. Conyers sho. ld Preach & assert this Doctrine; That the Oaths of Allegiance and Supremacy were Heretical, Antichristian & Devillish: accordingly this Order was Executed, and the Sermon preached. Mr. Whitebread in the month of January, wrote Letters (or at least-wise in the beginning of February, I will not be positive as to the time, because it does not occur to my memory,) to St. Omers, concerning the State of Ireland, of which he had an account from Arch bishop Talbot, who wrote him word, that there were several Thousands of Irish, that were ready to Rise, when the Blow should be given in England.

Lord Ch. Just. was that in Whitebread's Letter?

Doctor Oates. Yes, my Lord, and Mr. Whitebread did say, He did hope it would not be long ere it was given. Now, my Lord, by the word Blow, we did use to understand and had instructions to understand, the death and murder of the King; and in the month of January, I think it was, that he sent over two Jesuits into Ireland, to see how the state of Affairs stood there: in the beginning of April they returned, of which we had an account from Mr. Whitebread, by Letters, wherein there was mention of a Consult to be held in the month of April old Stile, and May new Stile; & according to the Order there given, there met at that Consult, the Prisoners at the Bar, Whitebread, Fenwick, Harcourt, and Turner, and if it please your Lordship, all these at that Consult did Sign a Resolve, Mr. Whitebread at his Chamber, which was at Wild-houfe, Mr. Fenwick at his Lodgings in Drury-lane, and Mr. Harcourt, who had some at his Chamber in Duke-Street. But my Lord, I am to premise this before I go any further, that the Consult was begun at the White-horse Tavern in the Strand, and there they did agree to send Father Cary, to be their Procurator at Rome; and after some such things were done, they adjourned into several Clubs or Colloquies, or what you please to call them. One was at Mr. Whitebread's Chamber, another at Ireland's Chamber, that is Executed, another at Harcourt's; and another at Fenwick's. now here was a Resolve Signed by these Prisoners at the Bar, in which -

Lord Ch. Just. That is four of them, Whitebread, Fenwick, Harcourt, and Turner.

Dr. Oates. Yes, my Lord. Lord Ch. Just. Was Gavan there? Dr.

Dr. Oates. I dare not, my Lord affect him with that, because I cannot be positive, but I'll give you my Evidence against him by and by. My Lord, these four Gentlemen, with the rest of their Accomplices, did Sign a resolve, which was this, *That Pickering, and Grove should go on in their attempt to dispatch the King; and that they did resolve upon, and gave it as their Judgment, as a very excellent expedient.* My Lord, after this Consult we did return, (we were 8 or 10 that came over) and may it please your Lordships, in the month of June, (I think it was June) he came to Flanders, in order to visit his Colledges, being Provincial of the Jesuits of England: He did stay there (as near as I can remember) till the 10 of June, and enquiring of the Fathers how Squares went in Town, among other expressions he used, this was one, *That he hoped to see the black Fools head at Whitehall, laid fast enough, and that if his Brother should appear to follow in his footsteps, his Passport should be made too, (or to that purpose) he should be dispatch'd.* Upon the 19th. of June old Stile, the 23. new Stile, I had orders to come for England, according to which Order I came, and did take the Pacquet-Boat, as near as I can remember, the 24th, which was 14th old Stile, and we landed at Dover the 25th very early in the morning; and when I was at Dover, I met with the prisoner at the Bar, Mr. Fenwick, and he, my self and some others, did take Coach, and come as far as Canterbury, after we had eaten and drunk there, we came six miles further, where there was a Box seized by the Searchers of the Town of Barton, and this Box was brought up by Mr. Fenwick, and directed to one Blundel, and the Supercription was (as near as I can remember) in these words, *To the Honourable Richard Blundel Esq. at London.* And this prisoner at the Bar, Mr. Fenwick did desire that the Searchers would send it to him, (it was full of Beads and Crucifixes, and such things) to the Fountain Tavern near Charing-cross, and writ a Letter to him, by the name of Mr. Thompson, a that was the name he usually went by, when he came to Dover, and he had then brought some Students there, to send over to St. Omers,

L. C. J. When went Fenwick?

Dr. Oates. When I came to Dover, I met Fenwick, by the name of Thompson, going to send over the Students, and Fenwick did say, *If they had searched his pockets, as they had searched his Box, they had found such Letters as would have cost him his life; for faith he, they were about our concern in hand.* Then we came up to London, and arrived at London the 17th. of June old Stile, for we lay a part of the way at Sittenburgh in the morning, and in the afternoon we came to Dartford, and came to London Monday noon the 17th. old Stile. And in the month of July there was one Richard Ashby, whose right name indeed is Thimbleby, but he went by the name of Ashby, and this Gentleman did bring over Instructions from the prisoner at the Bar, Mr. Whitebread, who was abroad in Flanders, wherein he was to propose 10000 l. to Sir George Wakeman, to poison the King, and several other Instructions there were, of which I cannot now give you an account; and withal that a blank Commission should be filled up, and ordered for Sir John Gage, to be a military Officer in the Army, and by that Gentlemans own orders I delivered that Commission into Sir John Gages own hand, on a Sunday.

Lord Ch. Just. Where had you that Commission from Whitebread?

Dr. Oates. It was signed and sealed by him, but it was a blank, and was to be filled up.

L. C. J. Where?

Dr. Oates. It was at *Wild-House*.

L. C. J. How was it filled up?

Dr. Oates. It was filled up by Mr. *Whitebreads* order, it was signed and sealed blank, and he ordered it to be filled up, and me to take that Commission, and carry it to Sir John Gage.

Whitebread. Did I order you?

Dr. Oates. You ordered *Ashby*, I saw the Letter, and knew it to be *Whitebreads* hand.

L. C. J. Was it before he went to St. Omers?

Dr. Oates. It was while he was at St. Omers.

Whiteb. What day was it? what hour?

Dr. Oates. It was in July.

Whiteb. What time of the month?

Dr. Oates. The beginning or middle.

Whiteb. Are you sure it was in July?

Dr. Oates. I cannot be positive, but I think it to be in July, for *Ashby* went to the Bath the latter end of July, or the beginning of August, and it was before he went.

Whiteb. Who was present at the signing of this Commission?

Dr. Oates. There was present at the filling up of this Commission, Mr. *Harcourt*, Mr. *Ashby* and Mr. *Ireland*.

Fenwick. Was not I there?

Dr. Oates. I think, I filled it up. I'll tell you when you were there presently. My Lord, when *Ashby* went away, *Fenwick* went out of Town, but returned again presently to give an account how Squares went, and really I cannot remember where he had been, but as near as I can, it was in *Essex*, I will not be positive in it; but my Lord, this same Gentleman Mr. *Fenwick*, with Mr. *Harcourt*, did advise Mr. *Ashby*, that as soon as he had been at the Bath he should go and give an account to the people in *Somersetshire*, and thereaway, his Circuit would be short and very easie, and he did not question, but before he came up to Town again, to have the Gentleman at *Whiteb.* dispatch'd whom they called the Black Bastard, now I leave that to the Jury to expound, whom they meant by it.

Fenwick. What time was that, Sir, pray? you must time things, or you do nothing at all.

Dr. Oates. It was the latter end of July, or the beginning of August, it was about the time of *Ashby's* going to the Bath.

Fenw. Just now he said, it was in the beginning or middle of July.

Dr. Oates. I tell your Lordship what I said, that this *Ashby* or *Thimbleby* came from St. Omers with those Orders or instructions, either the beginning of July, or the middle of July.

Fenw. I would not interrupt you Mr. Oates, this was sometime before Mr. *Ashby* went to the Bath, was it not?

Dr. Oates. It was about a day before.

L. C. J. He says a thing that is plain enough; *Ashby* came over about the beginning or middle of July, with instructions about the Commission; and about the latter end of July, or beginning of August, as he remembers, this advice was given.

Dr. Oates. And so we are arrived at the Affairs in August, which reflects upon these Gentlemen; but now I must speak a word to this Gentleman Mr. *Gavan*, the prisoner at the Bar, whom when I saw come into the Lobby, he had gotten on a periwig; so there

there was one asked me, whether I knew him? I know him now, but truly then I did not well know him, because he was under that mask, and I could not say any thing against him then, because he being under an ill favoured peeriwig, and being a man that I knew had a good head of hair of his own, I did not well understand the mystery of it, and so spared my Evidence at that time, from informing the Council against him; but the prisoner at the Bar came by the name of *Gavan*, and we used to call him by the name of Father *Gavan*: And this Gentleman did in the month of June write Letters:—

Gavan, What year?

Dr. Oates. In the year 1678. and did give the Fathers at *London*, an account how affairs stood in *Staffordshire*, and *Shropshire*, and how diligent one Father *Evers* was to manage affairs in those countries.

Gavan. From whence were those Letters sent?

Dr. Oates. There was only the day of the month, you know it is not the custome to date the place. When I saw the Letter first, I did not know it was his hand, I took it upon report; but I will tell the Jury by and by, how I came to know it was his hand: as near as I can remember, it was in the month of *July*, (it was *July* or *August*) this Gentleman came to Town, and I saw this Gentleman at Mr. *Ireland's* chamber.

Gavan. What time of the month?

Dr. Oates. It was in *July* 1678. as near as I can guess.

Gavan. Upon my Salvation I am as innocent as a child unborn.

Lord Ch. Just. North. By this means you may put out any Witness in the world by interrupting them. When the Witness hath done his Testimony, you may ask him any Questions to ascertain the time or any thing; but you must not interrupt him till he hath done.

Dr. Oates. In the latter part of *July* I think it was, but it was as I remember while Mr. *Ashby* was in town, I met him at Mr. *Ireland's* chamber, for he was a saying he would go see Father *Ashby* before he went out of Town, and he gave such an account to Father *Ireland* of the affairs in *Staffordshire* & *Shropshire*, as he had given in the Letter before; but to prove his hand, he did draw a Bill upon one Sir *William Andrew*, in *Essex*, for the payment of some money of some little sucking Priests, that were strolling up and down the country. I saw him write it, and it was the same hand with that Letter.

Gavan. What did I write.

L. C. J. You drew a Bill upon such a person, and he names him.

Dr. Oates. We are now come to *August*.

L. C. J. But you say he discoursed about the same things with *Ireland*, that he had wrote in the Letter.

Dr. Oates. Ye my Lord.

Gavan. And what were those same things?

Dr. Oates. Why, how the Affairs stood in *Staffordshire* and *Shropshire*, how my Lord *Stafford* was very diligent. I desire to be excused as to that, because it will diminish my Evidence in another part of it: He tell you part of what was then discoursed of.

Gavan. My Lord, he is sworn to speak all the truth.

L. C. J. You must speak the whole truth, as far as it concerns any of these persons.

Dr. Oates. He gave an account how prosperous things were in those countrys, and did say, that there was at least two or three thousand pounds that would be ready in that country, for the carrying on the Design, I think it was three, but it was betwixt two and three. Now my Lord we are arrived to our business in *August*, about the 12th. of *August* as near as I remember; but it was between the 8th. and the 12th. therein I am positive; *Ireland*, which is executed, took his leave of us, as if he were to go to *St. Omers*.

L. C. J. Where did he take his leave?

Dr. Oates. At his chamber in *Russel-street*. *Ireland* went out of Town, and *Fenwick* by that means was to be Treasurer and Procurator to the Society altogether. He had that employ afterward upon him during his absence, let Mr. *Ireland* go whither he would. And the 21. of *Aug.* which as near as I remember fell upon a *Wednesday*, Mr. *Fenwick* and Mr. *Harcourt* were met together at *Wildhouse*, and some other Fathers, as Father *Kaines*, and one Father *Blundell*, and some other Fathers whom I cannot remember.

Gavan. Was I there, pray Sir?

Dr. Oates. No, no Sir, I am not to talk to you still, I am to speak to the Court.

Lord Ch. Just. North. We would recommend this to you, to name persons when you speak of them.

Dr. Oates. Where I have occasion I will name them, my Lord. Mr. *Fenwick* and *Harcourt* were together at *Wildhouse*, and Mr. *Kaines* and Mr. *Blundell*, and as near as I remember, Mr. *Langworth* was there, but I wont be positive. And there lay before them at *Wildhouse* Fourscore pounds, the most of that money was *Guineys*, which was to be paid to the four *Irish* Russians that were to murder the King at *Windsor*. After it was agreed that they should do it, and *Coleman* who was executed came thither, and gave the messenger a *Guiney* to expedite the journey. We drew off from *Wildhouse*, and went to Master *Harcourt's* chamber, and because Master *Harcourt* had there left his papers that were to be sent down to *Windsor*, there he paid the messenger the money. And that Gentleman was present there, Mr. *Fenwick*, and this is another part of *August's* business. No sooner was this messenger dispatch'd but within a day after or a day before; but it was a day after, as near as I can remember, there was a Consult held at the *Benedictines* Convent, at which Mr. *Fenwick* was present and Mr. *Harcourt*, and there they had some more *Irish* news from the *Irish* Archbishop *Talbot*, who did give an account of the *Irish* affairs, how they did conspire the death of the Duke of *Ormond*; and desired to know how affairs went in *England*, and desired some Commissions might be sent over to some particular persons, there to raise Forces for the carrying on of the Design, and some money to be transmitted to them. And Mr. *Fenwick* did bring the Commissions from *Wildhouse* (as near as I remember) but he did bring them with him, and sent them down by a special messenger to *Chelster*, and some Letters by the Post. That of the Post I know of my own knowledge, but that of the special messenger I had only from his own mouth. My Lord, from the 24th. of *August*, as near as I remember it fell of a *Saturday*, *Bartholomew* day it was, but whether it fell of a *Saturday* I cannot be positive, but if the Court please to inform themselves of it by their *Almanaks*, they may.

L. C. J. There is no great matter in that I suppose.

Dr. Oates. But this Gentleman, *Mr. Fenwick*, did deliver me some money for my necessary incident charges, but did admonish me to procure some Masses to be said for a prosperous success upon the Design. Upon the 25th. day, I saw *Mr. Fenwick* in the afternoon at his chamber, and he was to go on the 26th. day the next day to *St. Omers*, and to carry 8 or 10 Students to go there to study Humanity: and this is the account I have to give to *Mr. Fenwick*. For after I took my leave of him here, I saw him no more till he was apprehended.

L. C. J. This was about the 26th. of *August*, was it not?

Dr. Oates. Yes, my Lord, it was the 26th of *August*.

L. C. J. Well, go on Sir,

Dr. Oates. The 1st. or 2^d. of *September* we received a Letter (in the beginning it was) from *Mr. Whitebread*, and this Letter they did say was a Foreign Letter, and yet it paid but 2 pence, by which I did conclude that *Mr. Whitebread* was come into *England*, and lay some where privately, or was not yet come to Town. On the third of *September* I went to *Mr. Whitebread's* chamber (at night) but he being at supper was not to be spoken with; but when he saw me the next morning, he did revile me and strike me, and asked me with what face I could look upon him, seeing I had dealt so treacherously with them. Now after that I had inquired in what respect, he answered in the discovering of the business, for there was a Gentleman that went to the King in this Business, to whom I had communicated much of my Information by *Dr. Tongue*. This Gentleman had the same coloured cloaths that I had, and so they not being able to give an account of the Name of the person, gave only an account of the Habit he was in, and therefore they charged me with it. After I had justified my self as well as I could, *Mr. Whitebread* did shew me a Letter which came from one *Beddingfield*, alias *Benningfield*, which did shew the Plot was discovered, and they were like to be undone, if it had not been for the five Letters that were sent down to *Windsor* and intercepted, which made all to be looked upon as counterfeit; after that, I justified my self as well as I could. He told me he would be friends with me, provided I would give an account of the party, and of the Minister that went with him. And this is what I have to say against *Mr. Whitebread*, and the prisoners at the Bar; but only this: because *Sir George Wakeman* did not accept of 10000 *l*, that was proposed to him to poyson the King, this Gentleman offered that 5000 *l*. more should be added.

L. C. J. Which Gentleman?

Dr. Oates. *Mr. Whitebread*. And 15000 *l*. was accepted, and when it was accepted, *Whitebread* did greatly rejoyce that the money was accepted to poyson the King. *Whitebread*, Did I tell you so?

Dr. Oates. No, there was a Letter told me so, but you were in *Flanders* then;

Sir Cr. Levins, What have you to say against *Mr. Turner*?

Dr. Oates, I speak as to his being at the Consult in *April*, and signing the Resolve of the Death of the King.

L. C. J. Was *Mr. Gavan* at that Consult the 24th of *April*?

Dr. Oates, *Mr. Gavan* was summoned to that Consult, but among 40 men I cannot particularly say he was there, but I saw his Name signed as to the Kings death, but I cannot say I saw his person.

L. C. J. Can you say you saw his Hand writing?

Dr. Oates, I do believe it was his,

L. C. J. Did you ever see any writing of his, but when he signed the Bill of Exchange?

Dr. Oates. My Lord, I never saw him write but that time. It was an ill Pen as it seemed that he writ his Name with to the consult, and I did not take so particular Notice of the being of his Name there, till we saw the Instructions in July, and then I did look over the consult particularly.

L. C. J. But I say, did you ever see his Hand Writing before he writ the Bill?

Dr. Oates. My Lord, I never saw his hand but that time.

L. C. J. And that by your comparing was like the hand of the Letter about Staffordshire?

Dr. Oates. By that I prove the Letter to be written from him, It was like it, and was all as one.

L. C. J. Was it like the Hand that was to the consult?

Dr. Oates. That I cannot say.

L. C. J. I thought you had said he confes'd the contents of the Letter, when he came out of Staffordshire?

Dr. Oates. I do say this of Mr. Gavan, that he wrote such a Letter, and when he came to Town he did give an account of all the passages that the Letter did contain, which was concerning the raising of Money in Staffordshire, and the parts he was concerned in: and this was the Account he gave.

L. C. J. Dr. Oates, you positively say, that Whitebread, Fenwick and Harcourt were there?

Dr. Oates. Yes, my Lord, for Mr. Whitebread was Provincial and President of the Assembly.

Sir Cr. Levinz. And Turner was there? Dr. Oates. Yes, he was.

Sir Cr. Levinz. Dr. Oates, what was that Money rais'd for?

Dr. Oates. They said it was for the carrying on of the design.

L. C. J. And what Design was that?

Dr. Oates. Our design. And that was the Subversion of the Government, and destruction of the King.

L. C. J. Now if you please you may aske him any Question.

Gav. Mr. Oates, you say you saw my Name to a Letter for the taking up of money. To whom was that letter writ?

Dr. Oates. There was a letter from you to Mr. Ireland. And he did receive it by the hands of Grove, Gavan, Where was that money to be taken up?

Dr. Oates. My Lord, I say, that letter was received by Grove, who is out of the way, and can't prove it, and was deliver'd to Ireland.

L. C. J. I perceive your memory is not good. Gav. I perceive his memory is very good.

Dr. Oates. This letter did give an account of the business of Staffordshire, and the particulars of that Mr. Gavan did afterwards give an account of by word o' mouth, and the other things not fit to be named.

Gavan. Pray, where was it Sir, that I gave an account of it, in London, or in the country?

Dr. Oates. In London.

Gavan. In what month.

Dr. Oates. In July it was.

Gavan. What part of July?

Dr. Oates. It was when Mr. Ashby was in Town, the beginning or middle.

Gavan. Just now you said it was in the latter end.

Dr. Oates. My Lord, I beg this favour, that if the Prisoners at the Bar ask any questions, they may be proposed to the court, for they are nimble in their Questions, and do a little abuse the Evidence. They put things upon them that they never say.

Mr. Just, Pemberton. propose your questions to the Bench, that you would have asked. *Gavan,* I will do so, my Lord, in whose Honour I have more confidence than in whatsoever *Mr. Oates* says or swears.

L. C. J. But he tells you who you drew your Bill of exchange upon, and that was *Sir William Andrews.*

L. C. J. Norib, Don't give the King's Witnesses ill words.

L. C. J. Have you any more to ask, any of you? *Whitebread.* Yes, my Lord.

Lo. Ch. Just. See if you can catch him, he gives you a long and exact account as can be given by any man in *England*, and pray direct your self, *Mr. Whitebread*, to the Court.

Whitebread. He says he was here in *April*, and at the Consuls now I desire to know, how long before that time were you & I acquainted?

Dr. Oates. Why, before that time I never saw *Mr. Whitebread's* face.

Whitebread. what employment were you to have? and what reward?

Dr. Oates. When I came away from *St. Omers*, I was to attend the motion of the Fathers at your Chamber, and to carry the Resolve from chamber to chamber, where the Fathers were respectively met.

Fenwick. was not you at the *White-Horse-Tavern*? *Dr. Oates.* Yes, I was there.

Fenwick. Did you dine there? *Dr. Oates.* No, our stay was short there.

Fenwick. How long did you stay in Town?

Dr. Oates. Truly I can't tell you exactly, but from the time I came into *England*, to the time I went out again, was under Twenty days.

Fenwick. Who were they that came over with you? Name the Parties.

Dr. Oa. I will tell you who they were; but it's so long since, I can't exactly remember.

Fenwick. You need not trouble your memory, you have them in your Narrative.

Dr. Oates. My Lord there was Father *Williams* the Rector of *Wotton*, the Rector of *Leige*. *Sir John Warner*, *Sir Thomas Preston*, and some others.

Whitebread. Was not *Mr. Nevel* there?

Dr. Oates. I believe he was, it is like he might be there.

Whitebread. Was not *Sir Robert Brett* there? *Dr. Oates.* I believe he might.

Whitebread. You have said so in your Narrative.

L. C. J. Perhaps a man will venture to write more than he will Swear; not that he does Write what he does not believe, but that he knows he ought to be more cautious in his Oath, than in his Affirmation.

Fenwick. My Lord with your Lordships favour, it is upon Oath.

L. C. J. N. Fenwick. you are in a Court of Law, and we must go according to the Law, if you will prove any contradiction in him to his Oath, you must bring the persons here that saw him take the Oath, and you must not think to take a Pamphlet for Evidence.

Fenwick. It was Sworn before a Justice of Peace, and will not, I suppose, be denied, and therefore he must make his Evidence agree with it, being part of his Narrative.

Gavan. You speak of one thing in *August*, and of another in *July*; which month saw you me in?

Dr. Oates, I told you I saw you in Town in *July*, and when *Father Ashby* or *Thimbleby* was in Town. And you said you would go and see him,

Just. Pemberton, He says it was in *July*, and that is enough.

Gavan, What time in *July*?

Dr. Oates, It was towards the middle or latter end.

Gavan, Was it before *Mr. Ashby* went to the *Bath*?

Dr. Oates, It was so.

Lord Chief Just. He says he saw you in Town when *Ashby* was in Town, which was towards the latter end of *July*, or beginning of *August*. He cannot tell exactly whether, but positively he says before *Mr. Ashby* went to the *Bath*.

Lord Chief Just. North, Well, to satisfy you, we will ask *Mr. Oates* the Question again. Can you recollect whether it was the middle or latter end of *July*?

Dr. Oates, My Lord, as near as I can remember, it was about the middle of *July* that *Ashby* came to Town, and he did not stay in Town above a Fortnight. And it was whilst he was in Town, and designed to go down to the *Bath*, That this Gentleman came to Town, and gave account of the particulars of that Letter.

Lord Chief Just. North, You may ask him any Questions, but I would have you observe what account he gives, That about the middle of *July*, *Ashby* came to Town, that he staid in Town about a fortnight as he believes, that during that time, you came to Town, and then was this Discourse.

Dr. Oates, During that time I saw him in Town, but I know not exactly when it was.

Gavan, My Lord, I would ask him one Question, the thing that is brought against me; is this, He says *Mr. Ashby* came to Town in the middle of *July*; that he stayed in Town a fortnight; that while he was there I came to Town and had such Discourse. Now my Lord, I desire to know whether it was the first week or last week that *Ashby* was in Town that he saw me.

Lord Chief Just. If he can answer it, let him.

Dr. Oates, My Lord, I cannot.

Lord Chief Just. He tells you he cannot charge his memory with it.

Dr. Oates, No, my Lord, nor will not.

Lord Chief Just. Really I believe there is scarce one in all this company able to give an account of a particular time of a passage so long ago.

Gavan, No doubt he hath an excellent memory.

Lord Chief Just. And if he had not some memorials of this, he could not do it. And though he hath memorials of the most eminent passages, yet we cannot suppose he hath of all circumstances.

Gavan, But this is the substance; and your Lordship may conceive that not without Reason I urge it; for if *Mr. Ashby* came to Town the beginning of *July*, and stayed but a fortnight in Town, and I came to Town while he was here, it must be in one of the two last weeks. Now I would have it ascertained, because I may disprove it in one week or in the other.

Lord Chief Just. 'Tis true you did not amiss in asking the Question, if he were able to answer it; but if it be either, it is enough to prove you Guilty.

Gavan, Pray was it only one time or diverse; that you saw me in *London*?

Dr. Oates, It was but one day, but as near as I remember: I saw you twice that day.

and he tell it you by a particular circumstance, that I saw you in the afternoon when you were a little illish, and there was a cordial brought to you by an Apothecary, that went by the name of *Walpole*.

L. C. J. Here is memory refresh'd by a circumstance you see. Whether was it brought to him. *Dr. Oates*, To Ireland's chamber. *Gavan*, Who brought it Sir?

L. C. J. An Apothecary he says, whose name was *Walpole*:

Gavan, My Lord, I never saw *Walpole* in all my life.

L. C. J. I believe he is known well enough such an one as *Walpole* the Apothecary: But aske what questions you will.

Dr. Oates, I cannot say whether it was *Walpole* himself, or his man that brought it.

Gavan, I do as truly believe there is a God, and Heaven, and an Hell, as any one here does, as I hope for Salvation, as I hope to see God in Heaven, I never saw *Mr. Oates* before the day in *January*, when he says I had the Periwig on, and he did not know me: And as for *July*, I call God to witness, I never saw him then.

L. C. J. You were in town in *July*? *Gavan*, Upon my Salvation I was not in *London*.

L. C. J. You'll prove that by and by.

Fenwick, I hope, my Lord, we may ask him any questions in the court, of our Evidence, to make things clear? *L. C. J.* Yes you may.

Turner, Did you ever see me in all your life, before you saw me at *Whitehall*?

Dr. O. You were then in a disguised habit, & a natty periwig, & I did not know you so well;

Turner, You at *Whitehall*, was pleased to tell me, I went by another name.

Dr. Oates, I don't value names but your person, you are the man.

L. C. J. You are the man he says, *Turner*, Did you see me at the Consult?

Dr. Oates, I saw the man that speaks to me,

Turner, Who was there? and how many were present?

Dr. Oates, There were about 40. or 50.

L. C. J. When you have but one name apiece, then he can hit it right, but when you have so many names, then you are too hard for him.

Turner, Did you see me at the *Whitehorse*?

Dr. Oates, That I will not say; for when they were in lesser Clubs or Colloquies, I was sure of better acquaintance with them.

Turner, Where was it you saw me?

Dr. Oates, At *Mr. Fenwick's* Chamber;

Turner, At *Whitehall*, you said, it was at *Wild-House*.

Dr. Oates, My Lord, because the chiefest part of the consult sate at *Wild-House*, we called all in the consult at *Wild-House*.

L. C. J. I'll. your defence will be little else but captiousness, to disprove him in circumstances of time, place, persons, or numbers; now all these are but little matters to the Substance: 'Tis true, *Mr. Whitbread*, if you can prove you were not at that place at that time, it will do you great Service. Have you any thing more to say to him?

Lord Ch. Just. North, I hope your witnesses are in readiness, that you were fit to fortify your Testimony?

Dr. Oates, Yes, my Lord, they are, I desire they may be heard.

Lord Chief Justice, By and by, when occasion is.

Jury, My Lord, I desire he may be asked one Question.

L. C. J. *Mr. Garraway*, what Question would you aske him?

Jury, Where it was that he saw Mr. *Turner* at the Consult.

Dr. Oates, I saw him at *Fenwick* chamber, where he was a member of the Consult; and being so, I saw him sign the Resolve of the Kings death.

Lord Chief Just. Did you see him?

Dr. Oates, Yes, I did.

Sir Cris. Levins, Then we desire Mr. *Dugdale* may be sworn: (which was done.) Come, Mr. *Dugdale*, pray will you tell my Lord and the Jury, what you know concerning *Whitebread* and *Harcourt*? First about *Whitebread*.

Mr. Dugdale, My Lord, I have very little acquaintance with the man, I have seen him at *Tixall*, with my old Lady *Aston*.

Lord Chief Just. When?

Mr. Dugdale, I dare not speak the time, but appeal to him himself, about the truth of it.

Lord Chief Just. Is it years ago? *Mr. Dugdale*, It is two or three years ago.

Lord Chief Just. Well, what can you say against him?

Mr. Dugdale, Mr. *Whitebread* did write a Letter that I saw under his own hand, inclosed in a Letter from Mr. *Groves*, to Mr. *Ewers*, wherein he gave Mr. *Ewers* a caution, to be sure to choose those that were very trusty, it was no matter whether they were Gentlemen or no, so they would be but stout and courageous: This was the purport of the Letter, I cannot say the words exactly, but that he should chose those that were hardy and desperate, or to that purpose.

Lord Chief Just. Pray where was it you saw that Letter? *Mr. Dugdale*, At *Tixall*.

Lord Chief Just. How came you to see it?

Mr. Dugdale, Because all the Letters were directed to me, that came to Mr. *Ewers* inclosed in Mr. *Groves* Letters: And so I intercepted the Letter and read it.

Lord Chief Just. What was Mr. *Ewers*?

Mr. Dugdale, A Jesuit, my Confessor; for I was entertained by Mr. *Gavan* to be in the conspiracy of the Kings death, and so I was by several others.

Lord Chief Just. You were not acquainted with Mr. *Whitebread*'s hand, were you?

Mr. Dugdale, My Lord, I only came acquainted with Mr. *Whitebread*'s hand, by seeing him write a Letter at *Tixall*, which he delivered to me to send.

L. C. Just. I pray let me understand you: You say that Mr. *Whitebread* did write a letter to Mr. *Ewers*, inclosed in one from Mr. *Grove*, wherein he advised that he should entertain lusty stout fellows, and no matter whether they were Gentlemen, or to that effect: Now I ask you how you do know that was *Whitebread*'s hand? or was it his name only that was to it?

Mr. Dugdale, My Lord, I saw his name at it.

Lord Chief Just. When you saw that Letter: had you ever seen his hand before?

Mr. Dugdale, Yes, my Lord, I saw it to another Letter which I saw him write.

Lord Chief Just. And that was like the hand in the Letter to *Ewers*'s, was it?

Dugdale, Yes, I do almost positively swear it was the same hand.

Ob. Just. But what say you to *Gavan* and *Ewers*?

Dugdale, There were several Consultations in Mr. *Ewers*'s chamber, my at *Dosobel*; and several other places, Mr. *Gavan* might be so ingenious to

Chief Baron, What were those Consultations for?

Mr. Dugdale, For conspiring the Kings death, and introducing of Popery, Mr. *Ga-*

was chiefly made use of, as a good Orator and learned man, and a good Scholar to perswade people into the design, this I speak as to these persons.

Lord Chief Just. Pray go on Sir, for you shall have a full scope, for you never were a Witness in any of the Trials before; and you may take your own way, and you shall be heard, you shall not be interrupted; for what you say is very considerable.

Mr. Dugdale, One meeting I think was in September last, it was at Tixal, and there was my Lord Stafford, and several others.

Lord Chief Just. Was Gavan there?

Mr. Dugdale, Yes, Mr. Gavan was there, I suppose he will not deny it.

Mr. Justice Pemberton, Don't rely upon that, he will deny it, you may be sure, go on, You say he was there?

Mr. Dugdale, Yes, and that was to carry on the Design: And I was by to hear. I think Mr. Ireland was in the country then, there was you, (speaking to Mr. Gavan) Mr. Peters, Mr. Lewson, and Mr. Ewers, at this Consult, and there was another, my Lord Stafford, and others that I cannot now name.

Gavan, What time? Mr. Dugdale. It was in September, 1678.

Gavan, What day? Mr. Dugdale, I think it was 21. September.

Lord Chief Justice, What was that Consult and Conspiracy about, in short?

Mr. Dugdale, It was for the introducing of Popery, and taking away the Life of the King, I being a person chosen out for that purpose, and was to be sent to London by Mr. Harcourt, to be under the tuition of Mr. Parsons.

Lord Chief Justice, Pray who mentioned this? was that the first time that ever they discoursed of the death of the King?

Mr. Dugdale, No, my Lord, it was two years ago, but I speak of a shorter time.

Lord Chief Justice, Who began the discourse?

Mr. Dugdale, Mr. Gavan often discoursed of it, and encouraged me to it.

Lord Chief Justice, Who broke it first to you? who seemed that principal man?

Mr. Dugdale, Ewers and Gavan.

Lord Chief Justice, By the Oath that you have taken, repeat it once more, for this is new to us.

Gavan, 'Tis so to me too, upon my soul, for upon my conscience I never heard of it before.

Lord Chief Justice, 'Tis a mighty confirmation of what was before discovered.

Mr. Dugdale, But I speak to Mr. Gavan, and appeal to him himself.

Gavan, Look upon me with confidence if you can.

Mr. Justice Pemberton, You must not threaten the Kings Witnesses.

Mr. Dugdale, Mr. Gavan, I desire you to inform the Lords, and all here present, whether I was not under your Tuition? and whether you knew any unjust action by me?

Gavan, You were never under my Tuition.

Lord Chief Just. Did you ever know him?

Gavan, Yes my Lord, he used to come sometimes where I was, and so we were acquainted: and I lived within 11 miles of Tixal, my Lord Aston, and having acquaintance in that Family, Mr. Ewers, whom I know very well, I used to come there sometimes, but I never was in his Chamber in my life. In what Room of my Lord Aston's house was this Discourse?

Mr. Dugdale, Some of it was in the little Parlour, and some in Mr. Ewers's Chamber.

Gavan,

Gavan. Were any present there? And who were they? *Mr. Dugdale*. I have told you there was *Mr. Ewer*, and *Mr. Lewsin*, and *Mr. Prior's*; and some others; and for a further Confirmation of this, That *Mr. Gavan* may know that I had a great deal for him, and that they did love me well, I gave them an Estate, or else I believe they would not have trusted me so well as they did: I gave them 400 l. to pray for my Soul, and for the carrying on of this Design, and when they told me they doubted they should want money, I promised them 100 l. more for the carrying on the work. Upon which *Mr. Gavan* promised me that I should be Canoniz'd for a Saint.

Mr. Just. Pemb. *Mr. Gavan* himself. *Mr. Dugdale*. Yes my Lord.

Mr. Belwood. What do you know of any Forraign Assistance?

Lord Ch. Just. I would fain have all the world hear this; pray what was Discourst in the Parlour in my Lord *Ashon's* house, and in *Ewer's* Chamber?

Mr. Dugdale. It was about taking away the King's life, and introducing the Popish Religion.

Lord Ch. Just. By the Oath you have taken, was that their Discourse.

Mr. Dugdale. Yes, my Lord, They were contriving how to kill the King and introduce Popery.

Sir Cr. Levins. Pray, have you heard any Discourse of an Army, or about making a Massacre?

Mr. Dugdale. It was spoken in my hearing, and there was some discourse why they should expect Forces from beyond Sea, and this Gentleman said (meaning *Mr. Gavan*) though they Beyond the Seas had Troubles enough upon themselves, yet if we could effect it, men and money would not be wanting. I will add nothing more than the Truth in what I say.

L. Ch. Just. You deliver your Testimony like a sober modest man upon my word.

Sir Cbr. Levins. What say you as to a massacre?

Mr. Dugdale. My Lord I have at some Consultations heard speak of it, but the chief thing that they aimed at was first, there was a letter that came out of Paris, and came through *Mr. Harcourt's* hands, and so came down into the Country, to prove that it was the Opinion of them at Paris, and *St. Omers*, to sling all this upon the Presbyterians, that is, the Death of the King, That if any thing of that nature should happen, they should be ready to give the first Alarm, and give out, That it was those ill King-killing Presbyterians, that had done the Fact: And so they thought they should easily have brought in the Episcopal party into their Company to revenge themselves of the Presbyterians.

Lord Ch. Just. It was pritty Advise indeed, to have in first laid on the Presbyterians, that they might get Protestants to join and cut them off, and then their own Throats should be cut.

Mr. Dugdale. And then my Lord, there was to be a massacre; and if any did escape, that they could not be sure of were Popists, they were to have an Army to cut them off.

Mr. Belwood. Did he ever use any Arguments to you, to prove the lawfulness of the Design?

Mr. Dugdale. Yes, my Lord, he hath, and shewed me several Examples for confirming me in it.

Lord Chief Justice. What for killing the King?

Mr. Dugdale. For the killing of any, to introduce their own Religion.

Mr. Belwood. Pray, will you name some.

Mr. Dugdale. He endeavoured to prove it by Scripture, I cannot now call the Text to mind; but it was to shew, how it was lawful and good to destroy any for the advantage of their Religion, and then he shewed the Example of Father *Garnet*. How several of his Reliques being *beyond Sea*, great miracles had been done by them.

Lord Chief Justice. And so now there is by *St. Coleman* too.

Sir Cr. Levins. What Letters have you received from *Mr. Harcourt*?

Mr. Dugdale. I have received several Pacquets of Letters from several persons *beyond Seas*, which were, by his instruction, communicated by *Mr. Grove*, to *Mr. Ewers*, which Letters did contain Treason in them, for the introducing of Popery, and killing and destroying the King.

Lord Chief Just. How can you tell that?

Mr. Dugdale. *Mr. Harcourt* hath given it under his own hand, and I have intercepted the Letters, and read them.

Lord Chief Justice. You were acquainted with the hand?

Mr. Dugdale. My Lord.

Lord Chief Justice. Can read the Letters then? **Mr. Dugdale.** Yes, my Lord, I did.

Lord Chief Justice. How many Letters have you intercepted, have you intercepted Twenty?

Mr. Dugdale. Yes, my Lord: *Mr. Harcourt* was the first that gave intelligence into the Countrey (as I know of) of the death of *Sir Edmondbury Godfrey*.

Sir Cr. Levins. Tell when it was given and how.

Mr. Dugdale. I have made it out already upon Oath, and I have Witnesses to prove it.

Sir Cr. Levins. Pray Sir tell it now.

Mr. Dugdale. It was directed to *Mr. Ewers*, and it was three days before he was found, for it was received on the Monday, and he, as it is proved, was killed on the Saturday. The words were these, *This very night Sir Edmondbury Godfrey is dispatched*. And I very much rejected *Mr. Ewers* for this Action, and then told him, This will overthrow the Design or I will be hanged.

Lord Chief Just. What day did you receive the Letter?

Mr. Dugdale. I have proved I received it on a Monday.

Lord Chief Just. But pray what date did it bear?

Mr. Dugdale. That Letter must come by Saturday Post, for it said, *This night Sir Edmondbury Godfrey is dispatched*.

Lord Chief Just. He did not name any body, by whom?

Mr. Dugdale. No, but it said he was killed, and we knew by whom.

Mr. Justice Pemberton. And are you sure that was *Mr. Harcourt's* letter?

Mr. Dugdale. Yes, for he did usually sign his letters with two letters *W. H.* which stood either for *Harcourt* or *Harrison*.

Mr. Belwood. Did you acquaint any body with this, or did you conceal it?

Mr. Dugdale. I did go to an Alehouse that is hard by my Lords the next day, which was Tuesday, and there I asked, if they did not hear some news of a Knights being kill'd at London? And I have an Evidence here, if your Lordship please, I will call him, who I desire may testify the same thing.

Lord Chief Just. Yes, by all means.

Sir Cr. Lewis. Mr. Dugdale, Pray, will you give us some more account of the letter that came from Mr. Whitebread to Mr. Ewart.

Mr. Dugdale. I remember one particularly, but I cannot tell what number I have seen.

Sir Cr. Lewis. Did you see more than that one?

Mr. Dugdale. I particularly remember that.

Lord Chief Justice. What was that one particularly?

Harcourt, My Lord, I desire to ask him one Question, When was the last time that you received any letters from me?

Mr. Dugdale. The last I received from you (to my best remembrance) was that about Sir Edmundbury Godfrey, and it was in October.

Harcourt, I have not writ to that person this year and half.

Lord Chief Justice. Let that man be called, that proves this business of the death of Sir Edmundbury, and the talk of it.

Mr. Dugdale, Mr. Harcourt, you know very well, that when Mr. Ireland was last in the Country last year, you were to send him the Answers that came by letters from Saint Omers, and those were sent down to my Lord Aston, and I saw them, eight of those letters, I am sure. And I can prove it by one circumstance, one of them came relating to Mr. Edward Aston's death, from Paris; I intercepted them, and talking of it, that I could conjure, and tell of the death of Mr. Edward Aston, before any of his Friends knew of it. And Mr. Ireland writ a chiding letter about it, that he had not heard it sooner, and you sent down word, That you did write those letters, and yet you say you have not written to me of a Twelvemonth, or more.

Harcourt, This Gentleman does pretend to know my hand, and 'tis true, I have writ several letters for Mr. Ewart, and directed to him, but as to this time he speaks of I have left off writing for divers years. He pretends to know me, and yet this Gentleman before the Committee of Commons in Parliament, which was yesterday was 5 weeks, as well as he knew my hand, came and said I was a Gentleman he did not know. He came also to entrap me at the Gatehouse before those Gentlemen of the Committee of the House of Commons; but because he said he knew my hand to very well, and testified those expressions in the letter, I must say this, I never did write any such letter, nor did I ever in my life seem to approve of any mans death or murder. But the thing is this, he pretends to know my hand, and to prove it, the Gentlemen desired me to write my own hand and my name, and he in the mean time did withdraw, and three of them did write their names, & afterwards they called him in again, and asked him which was Harcourts hand, & he was not able to say which it was.

Lord Chief Just. You write more hands, as well as have more names, and can counterfeit your hands as well as change your names.

Mr. Justice Pemberton, You speak before your time, and your bare word goes for nothing.

Lord Chief Justice, But Mr. Dugdale, where is your Witness?

Harcourt, I don't know any thing of this.

Lord Chief Justice, But if he calls up a Witness, of whom you can have no suspicion, that can testify that at this time Mr. Dugdale spoke about the death of Sir Edmundbury Godfrey? What will you say to that?

Harcourt, I believe there is no such thing at all.

Sir

Mr. Cr. Levins, My Lord, here is *Mr. Cherwin*, pray swear him?

(Which was done)

L. C. J. *Mr. Cherwin*, Do you remember that *Mr. Dugdale* came to you any time last Summer, and what time, and what discourse had you.

Mr. Cherwin, My Lord if your Lordship please, I was most part of the Summer in the Country, I came into *Staffordshire* about the 29th of *August*. My Lord, there is a Gentleman, one *Mr. Sanbidge*, that is a Kinsman of my Lord *Altons*, that was very well acquainted with the Family where I was, which was half a mile off my Lords, and used to come and play with me at Tables. My Lord, at that very time in *October* he came to me, and there says he, Do you hear nothing of a Justice of Peace in *Westminster*, where you live, that is killed? or to that effect. No, said I, and I had Letters yesterday, and heard nothing of it. Saith he, I was this morning at *Elks*, and there a Girl of the House told me, *Mr. Dugdale* had been there, and reported, that there was a Justice of Peace of *Westminster* was killed; but who he should be I never heard named, and on Saturday following my Letters brought it down to me.

L. C. J. when was it that this was spoken?

Mr. Cherwin, it was Tuesday morning, (as I remember) and that by very good circumstance, I went that day for *Lichfield*, the Saturday after the News came to me to *Lichfield*, that *Sir Edmundbury* was found murdered.

L. C. J. The Jury will do well to observe this in point of time, *Sir Edmundbury Godfrey* was killed, as it was since proved, a Saturday, but on Monday he was missed, on Thursday he was found, and on Saturday the News was spread all over the Country. Now said he, the Tuesday before the news came down, which must be the Tuesday after the Saturday he was killed, one comes from the Alchouse, and asks, do you not hear of a Justice of Peace at *Westminster* that is killed? for the Wench at yonder Alchouse saies *Mr. Dugdale* was here this morning, and reported that such an one was killed: So that it is most Notorious, as any thing in the World can be, that this thing was known to them, before any of us knew what was become of him.

Mr. Justice Pembrton. How do you further know it to be upon Tuesday?

Mr. Cherwin, I know it to be that Tuesday, my Lord, very well, for we all went about such a time to my Cousins Mothers, to stay a Week there, and after I returned back, and on Tuesday, the 15th of *October*, I went to the Race to *Lichfield*, and stayed till Saturday there, and came thence to *London*, and was here the Wednesday, being the first day of the Term. But I remember particularly the first Information *Mr. Dugdale* gave in the Country, came to my cousins hands from the Mayor of *Stafford*, and I happen'd to see him, I think it was *Christmas* day. It came inclosed in a letter upon the apprehension of *Mr. Dugdale*, I remember I met him, and he told me of it, and said he, the Parliament did not sit that day: so he went to acquaint the Lord Lieutenant of the County, that is, the Duke of *Monmouth* with it, who carried it to the King. But when *Mr. Dugdale* was sent for, my cousin went down, and writ me a good character of him. As soon as ever *Dugdale* came to Town, before he went to be examined by the Council, as I remember, I went with some Gentlemen to speak with him, and said I to him, can you say any thing about *Sir Edmundbury Godfrey's* Death? Said he, I remember such a Letter came at such a time from *Father Harcourt*, to *Father Ewers*, wherein were these words, *This Night Sir Edmundbury Godfrey is dispatched*: And said he, I remember I asked the Question of *Ewers* Is not this likely to spoil all the design? No, said he, he

was a man that prosecuted persons that went to debauch'd Houses, and it will be said to be some of them, that did revenge themselves of him, or words to the same effect. This made me recollect the time I had, the discourse with the Gentlemen in the country. I happened to be out of town when the murderers of Sir *Edmonsbury Godfrey* were Tryed, as soon as I came to town, and found that the murderers of Sir *Edmonsbury Godfrey* were condemned, I was at a Coffee-house, enquiring how it was managed? some I found slighted, others did not know what to make of it. Was not Mr. *Dugdale* there, said I? No, said they. Then I presume, said I, that a very material evidence was omitted. Upon this I went to Mr. *Dugdale's* Chamber, and there said I to him, What was the reason you were not produced as an Evidence, at the Tryal of Sir *Edmonsbury Godfrey's* murderers? Said I, you told such a thing, and I hope you told Truth, for I don't hear that you have ever contradicted it, that you saw a Letter about the Monday after he was murdered. In my judgment it is very material, if you have sworn it; if your deposition be true, or else you did fill to report it. Said I, pray let me see the Copy of your deposition, sworn before the Council. He shew'd it me, and there was not a syllable of it that I could see, but afterwards appear'd to be there.

L. C. J. That is not very material, if the thing it self be true.

Mr. *Chewin*. But its not being there, made me remember it.

Mr. *Recorder* Pray set up Mr. *Dugdale* again. Now pray tell the Contents of Mr. *Whitebread's* Letter.

Mr. *Dugdale*. The Contents of it was, to encourage Mr. *Ewers* to go on to be careful whom he did intrust, that they should be such fellows as were desperate, hardy, courageous and stout, or to that purpose; it was no matter whether they were Gentlemen or no, if they were but courageous and desperate.

Mr. J. A. What were they to do?

Mr. *Dugdale*. For the killing of the King.

L. C. J. Was that in *Whitebread's* Letter?

Mr. *Dugdale* Mr. *Whitebread* did write those words, they were in the Letter.

Whitebread. Was that very word in the Letter, for killing the King?

Mr. *Dugdale*. It was, that they should be stout and courageous persons.

L. C. J. For what end?

Mr. *Dugdale*. It was for taking away the King's life.

L. C. J. I ask you, recollect your self, was it by way of description of some Design or Plot, that those persons were to be chosen out? or was it in downright words for killing the King?

Mr. *Dugdale*. To the best of my remembrance they were those very words.

L. C. J. It was much he would write such words in a letter.

Mr. *Dugdale*. I was one that was made choice of about it.

Mr. J. *Pemberton*. Were you to be one?

Mr. *Dugdale*. Yes, I was.

Mr. J. *Pemberton*. Mr. *Gavan*, you know who it was you entertained for this Business, and you could trust them.

L. C. J. How were these letters conveyed? Were they sent by the Ordinary Post?

Mr. *Dugdale*. Yes, they were, and they trusted me with them, because being directed to me, if they were intercepted, I should be hang'd, and they saved.

Mr. J. *Pemberton*. Upon these letters, what were you entertained to do,

Mr. Dugdale, my Lord, I was entertained before by my Lord Stafford, and Mr. Ewers
Mr. J. Pemberton, What to do?

Mr. Dugdale, To kill the King.

Whisebread, Pray Sir, How came you to see these letters? Did you intercept them and read them your self?

Mr. Dugdale, I did intercept them, and open them of my own self.

Whisebread, Pray take notice of what he says Gentlemen.

Mrs Recorder, The Jury do take notice.

L. C. Baron, Do you know any thing against Mr. Turner, and Mr. Fenwick?

Mr. Dugdale, Mr. Ewers hath told me by word of mouth, that he was to carry on the Design in Worcester-shire, but I saw him with Mr. Ewers and Lewson, and others, when he was going to his Brother Turners then in Nottinghamshire, and they did consult and agree there, in my hearing to all that I have said before.

Turner, What did I assent to?

Mr. Dugdale, Why this Design, you and Mr. Ewers and Lewson, and others, agreed to what I said before.

Turner Where was this?

Mr. Dugdale, At Tinsal and other places.

Turner, In what month.

Mr. Dugdale, It was about two years ago, about the beginning of the Business.

Turner, Where was it?

Mr. Dugdale, It was at Mr. Ewers Chamber, you know me very well.

Turner, I have not been in Staffordshire these four years.

L. C. J. why, don't you know him Mr. Turner?

Turner, I do know I have been there a matter of three or four times in my whole life, but have not been there these four years.

Mr. J. Windham, Have you any thing to say against Fenwick?

Mr. Dugdale, I don't know that ever I saw him before.

Mr. Recorder, But he speaks fully as to the other Four.

Sir Cbr. Levins, Call Mr. Prance, and swear him. (Which was done)

Sir Cbr. Levins, Come on Mr. Prance, What can you say to Mr. Fenwick or any of the others?

Mr. Prance, Mr. Harcourt, I made him an Image of our Lady about a year ago, and when I was receiving mony for it, (it was to be sent into Merry-Land) you told me then that there was a design of killing the King.

Lord Cb. Just. Who told you? Mr. Prance Mr. Harcourt that very time.

Sir. Cbr. Levins, When was it?

Mr. Prance, It was when it was sent to Merryland in the Portugal's Country, you know it well Mr. Harcourt.

Harcourt, I know nothing of it?

Sir, Cbr. Levins, Pray let him alone till we have done with him.

Harcourt, I desire but to know when it was.

Mr. Prance, When I received the money for the picture, it was a year ago.

Sir Cbr. Levins, What say you to Mr. Fenwick.

Mr. Prance, I was in Mr. Ireland's chamber in Russel-Street, and there was Ireland, Fenwick, and Grove, and they were talking of 50000 men that should be raised and be in readiness to carry on the Catholick cause, and settle the Catholick Religion. I asked who should Govern them? they told me my Lord Bellasis, my Lord Powis, and my Lord Arundel.

Lord Ch. Just. Who told you so?

Lord Ch. Just. How long ago?

Mr. Prance, About a fortnight Michaelmas last. Mr. Grove came to me two or three days afterward to buy two or three Silver Spoons to give away at a Christning, and then I asked him what Office he should be in, he told me he could not tell, but he told me my Lord Arundel, my Lord Bellasis, and my Lord Powis, had Commissions for these things to give.

L. C. J. This Grove told you.

Mr. Prance. Yes, my Lord.

L. C. J. But what did Fenwick tell you?

Mr. Prance, He told me who were to govern the Army, my Lord Bellasis, my Lord Powis & my Lord Arundel of Wardour. Sir Ch. Levins, Had he any discourse with you about Trade?

Mr. Prance. He said, I should not fear Trade, I should have Churchwork enough.

Mr. Belwood. Pray speak that again.

Mr. Prance, I asked him what shall we poor Tradesmen do if you have civil wars, in England? O, said he, you need not fear having trade enough, you shall have Churchwork enough to make Images, Chaises, and Crucifixes, and Vases, and such like things.

Mr. Belwood. If you will ask Mr. Prance any questions, pray do.

Fenwick, My Lord, I am certain of this, that he never saw me at Mr. Ireland's chamber in that company, nor did I ever speak of any such thing before him.

Mr. Prance, Mr. Ireland, and he have been sitting together whole hours, and consulting about some concern or other, mischief no doubt, My Lord, I went to Mr. Fenwick's chamber after my Ghostly Father was dead.

L. C. J. What was his Name.

Mr. Prance, Father James. And he importuned me to come to confession to him; I told him I was not yet very well satisfied who I should go to, to be my Ghostly Father, Fenwick, When was this Mr. Prance?

Mr. Prance, Before Michaelmas about a week or eight days.

L. C. J. Did not you know him Mr. Fenwick?

Fenwick, Who Father James? yes very well, and I know Mr. Prance, but not upon that account.

Mr. Prance, And I brought you a Table home for the Altar at the same time.

Mr. J. Pemberton, Who was it importuned you to have him for your Confessor?

Mr. Prance, It was Mr. Fenwick, and I told him when I did come to Confession, I would come to him. And he enjoined me on e or twice to say nothing of what I heard said.

L. C. J. If Harcourt have any questions to asked him, let him.

Harcourt, Can you say that ever I pose to you about any such Business?

Mr. Prance. Yes, as sure as I stand in this place, and you in that. And one Thomson came with you when you paid me for four Candlesticks.

L. C. J. Do you know Mr. Thompson?

Harcourt, Yes I do.

L. C. J. Had you any Candlesticks from Mr. Prance.

Harcourt, I had a great while ago.

Mr. Prance, He paid me 44l. that time for them.

Mr. Recorder. Call Mr. Bedlow.

(Who was Sworn)

Sir Ch. Levins, What can you say to any the prisoners at the Bar?

L. C. J. What can you say as to Mr. Whitebread and Mr. Fenwick?

Mr. Bedloe, My Lord, I do not question but Mr. *Whitebread* and Mr. *Fenwick* will ob-
 justify me my refusing to give in Evidence against them at the former Tryal, but
 I think that there are some upon your Honourable Bench, that can make my Apology
 for not giving in all my Evidence against them then; for it was not convenient, because
 it would have stop't a Design I was then upon, and could not get off from, that was a-
 bout Mr. *Reading*, whom I was then treating with, for Mr. *Whitebread* and Mr. *Fen-
 wick*, as well as the Lords in the Tower, and he told me that he would depend upon my
 confidence & Justice as to the Lords, according as I did deal with these men; if I brought
 them off, he would believe & the Lords in the Tower believe that I would bring them
 off too. So that I did make an Apology then in the Court, that I could not safely say all
 that I had to say at that time. Some of the Justices I believe do remember it, and in that
 which I did give in against them, I did not say all nor half that I could have said.

Whitebread, Did you say any thing of that at the last Tryal?

Mr. Bedloe, I will answer that matter to the Court, but 'tis the measure they always
 take to intrap the Witnesse; for now I am out of a country that will give me an indul-
 gence and dispensation to speak exactly to a day or an hour; as their *St. Omers*
 Witnesse have,

L. C. J. But what say you now to them?

Mr. Bedloe, I did then say that I did see M. *Whitebread*, and he hath been in several
 consultations for the carrying on of the plot; but then I did it with a caution, that I
 never heard of Mr. *Whitebread*, that he was so very much concerned; and indeed I had
 no reason to say so, because I heard him my self, and could not well speak from the
 hearsay of another. And as for Mr. *Fenwick*, I never heard him give in any Answers,
 but I have seen *Fenwick*, at the Consult there.

L. C. J. Have they ever told you any thing concerning the Killing of the King?

Mr. Bedloe, *Whitebread* told *Coleman* at Mr. *Harcourt's* Chamber the manner of offend-
 ing the four Russians to *Windsor* about September.

Harcourt, I never saw him twice in all my life before.

Mr. *Belwood*, Do you know of any Reward those Russians were to have?

Mr. Bedloe, Yes, I saw *Harcourt* take the money out of a cabinet, I think it was four-
 score or One hundred pounds, the sum I don't well remember. *Harcourt* paid them the
 money by Mr. *Coleman's* order, and gave the messenger a Guiney from Mr. *Coleman*
 to drink his Health: Mr. *Coleman* was gone a little before I came in, and so I could not
 know that *Coleman* gave it, but he said so.

Sir Ch. Levins, What was *Pickering* and *Grove* to have?

Mr. Bedloe, *Grove* was to have £500 l. and a Promise of the Favor of the Lords,
 1500 l. was the Sum appointed at Mr. *Harcourt's* chamber, and doubtless in several
 other places, but there I heard it from Mr. *Whitebread*, and *Prichard*, and *le Faine*, &c
Kainer; and *Pickering* was to have a number of masses, I can't tell exactly how many
 but they were so many, as at 12 d. a mass, would amount to be equal to Mr. *Grove*.

Mr. *Belwood*, Pray, Sir, what was that for?

Mr. Bedloe, For killing the King. But *Pickering* had been disciplined before; and re-
 ceived a Check from the Superiors, because he had been negligent, and slept many op-
 portunities. One time the Flint of his Pistol was loose, another time there was no
 Powder in the Pan, another time he had charged with all Bullets, and no Powder.

Lord Chief Justice, Did you see *Harcourt* deliver the Guiney for the Expedition
 of the *Windsor* Business.

Mr. Bedloe, Yes, my Lord, as from Coleman, to drink his Health?

Mr. Belwood, Pray, was either *Whitebread* or *Fenwick* knowing of the Agreement when it was spoken of?

Mr. Bedloe, I have seen *Fenwick* at *Harcourts*, and *Whitebread's* chamber, when it was spoken of; they were all of one Opinion, they had decreed it. I never saw *Whitebread* but twice at *Harcourts* chamber, where one time was *Harcourts* himself, at another time was *Pritchard* and *le Fatre*, and others; at which time *Sir George Wakemans* Business was spoken of, and because he would not accept the 10000 l. 15000 l. was agreed to be given him; and upon *Sir George's* Tryal, I shall let you know where he had the money too, but I desire to be excused at present. I shall speak it to morrow.

Lord Chief Justice, What did they consult there?

Mr. Bedloe, They were consulting how it should be done, and what should be done, if they did not do it. Then *Ireland* proposed, that the most certain way was to do it at his morning walks in *Newmarket*; *Fenwick* was to go, and with him went *Grove*, *Pickering* and *Goniers*: I heard seven or eight of them were to go.

Lord Chief Baron, What say you to *Turner*?

Mr. Bedloe, Of Mr. *Turner*, I know nothing but what I have heard others say.

Lord Chief Baron, What say you to *Gavan*?

Mr. Bedloe, I know nothing of him, but only I have heard Mr. *Harcourts* say, he hath been a great manager of this Business.

Lord Chief Justice, That is nothing to the purpose what others say.

Mr. Bedloe, Mr. *Harcourts* is no stranger to my bringing of *Pacquets* and *Portmantles* over to him, from beyond the Seas.

Harcourts, He never brought but one in all his life-time.

Mr. Bedloe, What, Did I never bring but one *Pacquet*? Have not I brought divers, and divers *Portmantles*? *Harcourts*, You never brought a *Portmantle* in your life.

Mr. Bedloe, I have brought divers.

Harcourts, You know I never saw you but twice in my life before to day, and when I met with you at the *Privy Council*.

Mr. Bedloe, My Lord, the *Tria's* have been so put off, that I could never get all my *Witnesses* together, but I have 7 or 8 of my *Witnesses* that are out of Town, that would make this very clear. My Lord, there was never a *Pacquet* of letters that I brought over to Mr. *Harcourts*, but did contain in it a Design of the Subversion of the Government; and it must be more than two *Pacquets* that I have brought over; for I have brought letters from *Watson*, and letters from *St. Omers*, and letters from *Bruges*, and from *Paris*, and from *Valledolid* and *Sallamanca*; and all these letters contained in them the management of this Plot, how far they had proceeded beyond Sea, and Answers how far they had proceeded in England from him and to them to and again from time to time in carrying on the Design of Subverting the Government, and altering the Religion; wherein was given an account of the Army and Forces that were to be raised, both here and beyond Sea; what Contributions were made or expected at home or abroad, all was lodged in Mr. *Harcourts* hands, at least with an account of the greatest part. And I have been sent to Mr. *Langborn* with Papers from *Harcourts* about this Affair to Register them; and of that I shall give you an account upon Mr. *Langborn's* Tryal.

Lord Chief Justice, Well now ask him what you will,

Whitebread, Sir I desire to ask you one Question.

Mr.

Mr. Bedloe, I desire it may be asked the Court.

Whitebread, I desire to ask him whether he was a Lieutenant in *Flan's* or no?

Mr. Bedloe, Yes, I was.

Whitebread, Of Horse or Foot?

Mr. Bedloe, Of Foot.

Whitebread, Take notice there is no such Officer of Foot in all *Flanders*.

Mr. Bedloe, I was then in the Regiment of the Prince of *Frieze* and.

Whitebread, There are no Lieutenants in all the *Flanders* Companies, only Captains and Alfaras.

Mr. Bedloe, My Lord, I had a Commission, and I have a Commission to be so, and I desire I may send for it.

Lord Chief Justice, It is no very material thing, as soon as it comes they shall see your Commission.

Harcourt, You say you have had Papers from me, and been very familiar with me; Pray how can this be, when, as I did declare before the Lords in Council, that was the third time I ever saw your face? The first time he came to me, he brought letters from *Dunkirk* five years ago; when I opened them, I found them directed to other persons, and to them I sent them, my name being only used in the outside Cover; & it seems upon that confidence that he had in me at that time, not long after he came to my chamber, & told me he had lately become a *Roman Catholic*, and by that means had lost his Friends, and that he then was in want, and unless I did assist him it would be very hard with him; though his Father dissented him, yet he had some Friends, whom he expected would do something for him, and then I will repay you.

Lord Chief Justice, When was this?

Harcourt, The second time that I ever saw him in all my life, and this is four years since. Then said I, what will serve your turn, he told me twenty shillings, which I lent to him, and I never saw his face afterwards till I met him at the Privy Council, and therefore how should a man believe a word he says?

Lord Chief Justice, But how shall a man know that what you say is true?

Mr. Bedloe, I will make it appear at the Tryal of the Lords, that I sent to him for ten pounds, and had it, I cannot now prove it without bringing some Witnesses that I have behind a Curtain, and I will not discover them till then, they shall not know who they are.

Mr. Justice Windham, Will you ask him any Questions?

Mr. Bedloe, My Lord, I have not said the one hundredth part of what I can say honestly, and like a Christian, of Mr. Harcourt.

Harcourt, You may say what you will, but you wont speak Truth.

Mr. Bedloe, Mr. Harcourt went with me to Mr. Coleman, when I carried over the Consule. There was the greatest part of the Design in that which I was to carry over to Saint Omer, and that Consule did I fetch from Mr. Coleman, and Mr. Harcourt was with me, and I had thanks from Mr. Coleman for my Fidelity in the Business, and Expedition in bringing and carrying the Pacquets. I was recommended to my Lord Arundel, by Mr. Harcourt, and was promised by his Lordship all the Friendship and Favor imaginable, when the Times were turned.

Lord Chief Justice, Why here you see, he names several places and times, wherein he met with you.

Harcourt, Not one word of all this is true.

E

Mr.

Mr. Bedloe, I desire you to ask Mr. Harcourt, my Lord, Whether he was not in August, or September last, in company with me and Le Faire.

Harcourt, Le Faire, I know no le Faire. Mr. Bedloe, Le Fevre then.

Harcourt, Le Fevre, I believe I did see at that time, but not since.

Mr. Bedloe, Pritchard did recommend the care of me to him.

Lord Chief Justice, There he names another time, when you and Pritchard were there together.

Mr. Bedloe, Pritchard was my Confident, and my great Friend, and told them, This is a person whose Fidelity you have tried, in carrying over such and such letters, and therefore you may very well trust him, and take care of him: and so he recommended me as one that was really fit to understand the bottom of the Design. And Pritchard did tell me before them, that the King's death was intended as a part of it; and he sent me again another time to Mr. Harcourt, but it was about no material business; and Harcourt gave a Bill of Exchange to carry to what Citizen I don't know, but to Sir George Wakeman, to have 2000 l. by whose Orders, as they said, your Lordship shall know upon his Tryal, but I saw Harcourt give him the Bill of Exchange.

Mr. Justice Dolben, Who gave the Bill? Mr. Bedloe, It was Harcourt my Lord.

Harcourt, Who was by when this Bill was given?

Mr. Bedloe, Kaines and Sir William Anderson.

Harcourt, How was this Bill drawn?

Mr. Bedloe, It was drawn upon a Citizen, and left in your hands.

Harcourt, I desire he may name the Citizen, and if he can, make it out; if he do, it will appear upon the merchants Books.

Mr. Bedloe, Sir George Wakeman received a Bill of Exchange from Mr. Harcourt, and he was told here is a Bill of Exchange for 2000 l. as part of a greater Sum; to which Sir George Wakeman answered, that 15000 l. was a small Reward for the settling of Religion, and preserving of the three Kingdoms from Ruine; but if it were not for such a Woman, he would never undertake it, but for her he would do any thing. And after he had given Sir George Wakeman the Bill, Sir George Wakeman opened it, and read it, but I did not read the name that was to it.

Fenwick, My Lord, it seems not sufficient proof that he says, he saw a Bill of Exchange, unless he says from whom, and to whom, that it may be proved by the Books, or otherwise.

Lord Chief Justice, You say well, Mr. Fenwick, if so be he had been the person concerned in the Bill, that he were either one that drew it, or was to receive the money then it were strange that he would not know the parties to it; but I must tell you, where he was not one nor the other, it was a collateral matter. Do people take notice of every particular Bill of Exchange that they see, which they are neither to pay nor receive?

Fenwick, But what reason does he give your Lordship or the Jury to believe that there was such a Bill, unless he does produce either the Bill or the person that paid it?

Mr. Bedloe, I did only see the Bill out of Mr. Harcourt's hand, but it was read there only by Sir George Wakeman.

Lord Chief Justice, Is it a pin matter whether there were such a Bill or no, or whether he had mentioned it or no?

Fenwick, But seeing he hath mentioned it, I say there is nothing of proof of it, but only his bare word.

L. Chief. Just. Yes, there is his Oath.

Sir Cr. Levins, And I desire the Jury to take notice how unreasonable a thing it is that you ask. You would have **Mr. Bedloe** produce the Bill of Exchange that was given to **Sir George Wakeman** to receive money.

Mr. Bedloe, I have only one word more. **Sir George Wakeman** received the Bill of Exchange from **Mr. Harcourt**, read it himself, folded it up, and went and received the money; and that the Court will be pleased to see my Commission, for now I have it here.

Which was read by my Lord Chief Justice North, and several others.

Sir Cr. Levins, We have only this one matter to trouble your Lordship & the Jury with. You perceive by the Evidence that hath been given that the main matter begins at the Consult of the 24th. of April, when the Consult was, now to fortifie this Evidence, we are now to produce a Letter that was written from one **Petre** at **St. Omers**, Jesuit, wherein is mention made that he was to give notice, **Mr. Whitebread** had appointed a general meeting just at that time in **London**, at which they were to consult of very great matters; and they were to be very private in their coming to, and appearing about the Town. And this Letter was taken amongst **Mr. Harcourt's** Papers, and to prove it we call **Sir Thomas Doleman**.

(Who was sworn.)

Sir Cr. Levins, Pray what can you say where this letter was found?

Sir Thomas Doleman, It was found amongst **Mr. Harcourt's** Papers, in a bag of his Papers that was committed to my care to search.

Lord Chief Just. Can you tell what day you found it?

Sir Th. Doleman, It was a matter of six or seven days after **Mr. Oates** had given his Information of this Plot to the Council.

Harcourt, What Paper is it?

Mr. Justice Atkins, Hear it first.

L. C. J. It is a letter found amongst your Papers.

Harcourt, Who is it from?

Lord Chief Just. It is from one **Mr. Petre**, do you know such a one?

Clerk of Crown, It is subscribed **E. P.**

Harcourt, Yes, my Lord, I do, I will deny nothing of the truth.

Then the Letter was read *in hæc verba*.

Honoured Dear Sir,

I Have but time to convey these following particulars to you, First I am to give you notice, that it hath seemed fitting to our master Consult Prov. &c. to fix the 21th of April next Silo veteri, for the meeting at London of our Congregation, on which day all those that have a Suffrage, are to be present there, that they may be ready to give a beginning to the same on the 24th, which is the next day after **St. George's day**: You are warned to have Jus. suffragii, and therefore if your occasions should not permit you to be present, you are to signify as much, to the end, others, in their rank, be ordered to supply your absence. Every one is minded also, not to hasten to London long before the time appointed, nor to appear much about the Town till the meeting be over, lest occasion should be given to suspect the Design. Finally, Secresy, as to the time and place, is much recommended to all those that receive Summons, as it will appear of its own nature necessary.

Tertio pro Domino Solano Disco. Benefact. Prov. Lunienfis.

I am straitned for time, that I can only assure you, I shall be much glad of obliging you any ways,

S I R,

Your Servant Edward Petre.

L. C. J. Come now Mr. *Harcourt*, will you expound this Letter to me that speaks of this meeting and privacy?

Harcourt, Y^e my Lord, tho it was not my Letter yet I will tell you what the meaning of it was. Th^t Letter was writ to one, who had *Jus Suffragii*, a Right to come and vote in our Congregation; which, according to the Constitution and Orders of our Society, is within the Compa^s of three years, where they meet about the particular affairs of the Society.

L. C. J. What was it about?

Harcourt, It was about choosing an Officer, choosing a Procurator to send to Rome; that was the chief point, and secretly was a thing that was recommended to every one, as it was fit it should be, we living in a country where every ones eye was upon us, and we were an Eye-sore to them, we ought to be cautious of meeting in such Numbers as might give an Offence, and this was the only thing indeed.

L. C. J. Look you, Mr. *Harcourt*, you say well, but we are not to be altogether disciples of yours so as to have no sense of our own, and to be impos'd upon so weakly as this. Here is the thing, says the letter, *I would not have you come too soon to London, nor appear too much in publick for fear of discovering a design, which requires secrecy in its own nature.* What, was that your design of choosing a Procurator? Tell me but one thing that can bear the name of a Design, which must have that secrecy in it, that people must not appear much about Town, and that in its own nature require such a thing,

Whitebread, my Lord, the thing it self is Evident what was the Design,

L. C. J. Come, Mr. *Whitebread*, you will do it better.

Whitebread, It is Evident it was a design to choose an Officer.

L. C. J. Why, good Mr. *Whitebread*, do any write after that manner? Were you to write to any one, or ask the Jury, if they were to choose some Collector for the Receipt of some charitable money that should be employed for the relief of Protestants in France: Do you think any man would say, *do not appear much in London before hand, nor come too soon, for fear of discovering the Design, which in its own nature requires Secrecy*: will this indure the name of a Design?

Whitebread, First, it is a very hard thing to bring so many mens lives in danger merely upon the interpretation of a word, which may as properly signify one thing as another. Is it not proper for me to say I have a Design to Dine with such a man to morrow, or helke?

L. C. J. 'Tis true now, but Har' en —

Whitebread. But that was the thing Designed, to have a Congregation for the choosing of an Officer, and it was, I think, very properly said, and that it should be kept secret was as prudential a thing as possibly could be. Was it not proper here, because our profession was not publickly permitted in this Kingdom; and therefore that was the reason why secrecy was injoyned? And this upon my salvation was all that ever was in ended or thought.

L. C. J. *North*, This now is the interpretation you put upon the Letter, but we understand by the Witnesses what was done at that meeting.

L. C. J. Look you, Mr. *Whitebread*, this letter without Question hath been well Audited by you aⁿd; n^t it requires it mightily.

Whitebread. It needs none

L. C. J. This is not the natural Exposition of the words of the letter that you give, but

but a forced one; for first, there is a difference between saying I doe design to dine to day, though it be a usual matter, but it is another thing, when I call a thing by the name of a Design accompanied with a requiring of Secrecy in its own nature, & when I give advice that they must not appear in Town too soon, nor too much about the Town, for fear of discovering the Design, *which in its own nature requires Secrecy*: must all this amount but to the choosing of an Officer? You'l never make one Papiſt of all this Company, if you make no better work of it.

Whitchbread. My Lord, I humbly desire your Lordship would not strain a word which may be well enough said, whether it be properly said or. no.

L. C. J. 'Tis not one word alone, but 'tis the whole sense.

Whitchbread. 'Tis evident there was Just cause of Secrecy, because of our Profession.

L. C. J. *Mr. Whitchbread,* 'Tis not one word that is relied upon, for the business is pursued. 'Tis not said *pray meet at such a time*, but *be careful you do not discover the design*; If it had been only said so, it would have been a strain to have made this Construction of a single word, to make this that Design, but as it is here we make no such Construction; It had been hard indeed to put that meaning upon it as you do even then, for tis seldom so used, for no man writes after that manner; but when it follows in a continued sense of so many lines, *be sure you meet on the 24th. of April, the day after St. Georges day, but come not too soon to Town, nor appear too much about the Town, for fear of Discovering the Design, which you know in its own Nature does require Secrecy*: Can we make any such Interpretation of it? If you have no better Arguments than these, you must have people lose their understandings, or have a very blind obedience to yours, or it will never down. Ay, Come *Mr. Gaven*, how do you say is the meaning of this?

Gaven, For my part I 'leasure your Lordship I was not there, but this is known to all the Christian World, that there is such a meeting in Spain, France, Germany &c. that wherever the Jesuits are, once in three years they have a meeting among themselves for the settling of their Affairs. Indeed the words have given your Lordship an occasion to raise a Difficulty what the word *Design* should mean, which I do give this Answer to Your Lordships Difficulty is, that the word design here should not be made use of to send one poor Jesuit to Rome. my Lord do but mark the end of the Congregation, and you will say to us that we might well use that word, because the word may import some great business of Concernment; now what business of greater concernment for poor Religious men to meet together about, than those things that may promote their better state in another world, and the Regulation of what is amiss in their Order. my Lord, upon my Conscience and Salvation this was the end of the Congregation, to meet and see what is amiss in the Order, who do their duties, and who not, who are irregular in their Offices, and whose Office is vacant and to be supplied.

Lord Ch. Just. But must no body come to Town, nor appear too much about the Town for this?

Gaven. Therefore my Lord, as to the word [*Design*] it concerning the whole spiritual good of the whole body of the *English* Jesuits, it might well be used for the Consultation of that Body, about all their good, Temporal and Spiritual, which was all concerned in it.

L. C. J. These are a many words, but to no purpose.

Gaven Now, my Lord, for the second thing that you Object, your Lordship remembers very well, that the Continuation of the sense in so many lines made the thing the
more

more suspicious, that more was intended by it than so: Now to this I shall be able to answer, if there can be given a particular reason why we should ad that word of Secrecy to the other of Design, having Answered to the one part, we now give an answer to the other, and so to the whole. Now my Lord, because of the time, the Parliament was then sitting, and that we might not offend the King and all Civil Magistrates (whom we honour from our hearts and Souls) that word was used that it might be kept secret.

L. C. J. It was not out of Love to the Parliament, it was the nature of the thing required it, nor was it out of any fear you had of them. I did never find, though you are as good at it as ever any I met with (for I never met with a Priest that had much more understanding) but really you do not Answer me. You are so far from Scholars, and arguing like such, that you do not maintain the matter with common and rational understanding, but only heap up so many vain words (like a Rope of Sand put together) which hath no natural Coherence, for you cannot possibly make this reasonable, that the people should have so much Caution, that they should have not come too long to Town beforehand.

Gaven, Not to be taken notice of.

L. C. J. Not to appear in Town when they come,

Gaven, Not to be taken notice of.

L. C. J. I say so, you cannot tell why all these Cautions should be used meerly for choosing an Officer.

Gaven. My Lord, our Lives depended upon it, if we were taken, being such men as we are.

L. C. J. You can make nothing of it, and you will find it an hard task to Answer it, for if half the Evidence that hath been given were not given, yet this Letter of your own, which cannot be denied, is an unanswerable proof: It does monstrously confirm Mr. *Oats*'s Testimony to be undeniable as to the meeting at the Consult; for he, four or five dayes beforehand, comes and tells the Council the very day which five or six days after this Letter makes good, which is found in *Harcourts* Custody. Then there was a Consultation upon the day, the very day that Mr. *Oats* says, and what he calls a Consultation, your own Letter says is a Design.

Gaven. It was a Design of a Congregation.

L. C. J. What sense is there in that, will any man in *England*, or did any man in *England* ever say, take heed of discovering our design of going to Church or choosing a Collector?

Gaven. There is reason for the one and reason for the other too.

L. C. J. I would appeal to your selves and all here present, what the natural import of such a Letter is, whether it does not carry a matter more than ordinary; whether its natural Intendment doth not look at that? And the next thing is this, doe any man write plainer then this, when they write of a thing that is of such a nature? Is not the Danger too great to hazard that fact, which they call the nature of the thing, to intrust it in a Letter? Is it not vain to put that in a Letter in words at length, which they to whom it is writ, know what the thing means? And if it should be further known than they would have it, the thing could never be done? And if you consider the person that writes, a Jesuit or a Priest, are Priests ever plain? And will you expect plainness here, when, in things of Ten thousand times less moment, they

they don't write plainer? Is it not known, you have not a Profelyte, that you do not keep under Obligations as close as your Confession are? Have you not taken here as it is sworn, a Sacrament of Secresie? Is there a woman that you convert but in the Dark? Or a Papist made out of a Priest's hole? Are not all your deeds under ground? and do you work with any Light, but that of a Dark Lanthorn? This is plain, unless you give a better answer to this Letter, the Letter will hang about your necks.

L. C. J. *North*. Mr. *Oates* will tell you what the Design was.

Mr. J. *Elis*. He can tell you what it was.

L. C. J. The letter speaks it self.

Dr. *Oates* Mr *Gavan* and they now tell your Lordship what this consult was for, but they deny'd this consult at first, when there was but one man to justify it. I justified it before Mr. *Fen*. who denied it at the Council-board, though now they pawn their Salvation upon the justification of it. *Fen*. I never denied that there.

L. C. J. Come, have they any thing to say for themselves?

Mr. *Bedlow*, My Lord, whereas, as Mr. *Gavan* says, that in obedience to the King and Parliament they would have their consultations secret, and that they always desired to conceal themselves then; the time of Sessions of Parliament was the only time that I and others have been employed to fetch over more Jesuites than at any other particular time.

Dr. *Oates*. And there are more of them then in the Court of Requests, and in the Nobles, bare-faced, and threatening the Protestants, than at any other time.

Mr. *Bedloe*. We used to fetch them against the Parliament always; they were in less danger then than at other times.

L. C. J. You could give a very good interpretation of the Letter, I supposed, that Mr. *Dugdale* speaks of, that came from *Whitebread*, That he should be sure to entertaine such as were hardy, stout Fellows: I suppose you can make all this to signifie nothing more than a design for a Game at Cudgels.

Sir Cr *Levins*, If your Lordship please, we must desire that one Letter more may be read. Your Lordship hath been told of Commissions for the raising of an Army, here is a touch of them mentioned in this letter found amongst Mr. *Harcourt's* letters too.

L. C. J. Look you, Mr. *Harcourt*, you had best attend, here is another letter found amongst your papers, concerning some Commissions, You look ill to your letters; you are to blame indeed, Mr. *Harcourt*.

Sir Cr. *Levins*, Pray, Sir *Thomas Doleman*, look upon that Paper, and tell us how you came by it.

Sir *Thomas Doleman*, This letter in my hand I found amongst Mr. *Harcourt's* papers, about some two days after I found that other that was read before. Having heard Mr. *Oates* give in his information to the Council, That there were several Commissions given out to several persons, and finding some doubtful clauses and Expressions in the letter, I did present this letter to the Council, and made a mark upon it, Enquire what is meant by the word Patents.

Lord Chief Just. Pray let it be read, because we shall desire a little more of their interpretation.

Cl. of Cr. It is signed Christopher Anderson^e Hilton, February the 5th, 1677.

Dr. *Oates*, Hilton, that is, Rome.

Lord Chief. Just. Mr. *Harcourt*, you understand, that by Hilton is meant Rome?

Harcourt, Yes, my Lord, I do. L. C. J. Well, then go on, and read it.

Cl. of Cr. Worthy Sir, I know not from whence it proceeds, but I perceive that both your Letters and mine have had fortune by the way; for my correspondents with you complain they hear not from me, whereas I write constantly intire Pacquets; and since the Bills I received from your self for Sr. William Goring, and for Mr. Ireland, from Mr. Shelly, I have not had one letter but that I received this week, which in part made recompence for the former, for it brought me three of yours, and one of Mr. Ireland's for which I render you many humble thanks, and acknowledge the fifteen pounds from my Lord Castlemain, though Mr. Ireland made no mention of it in his. We are all here very glad of the promotion of Mr. Tho. Harcourt. When I writ that the Patents were sent, although I guess for whom they were, yet I knew not for certain, because our Patrons do not use to discover things or resolutions till they know they have effect. And therefore in these kind of matters I dare not be too hasty, lest some might say, A Fools Bolt is soon shot.

Lord Chief Just. What is the meaning of these Patents?

Fenwick, This Gentleman will tell you, my Lord.

Whitebread, My Lord, they were the Patent for my being Provincial.

Lord Chief Just. How many Patents had you? Whitebread, But one, my Lord.

Lord Chief Just. Is that Patents? Whitebread, Litera Patentes.

Lord Chief Just. Is it Patent or Patents? Clerk of Cr. Patents,

Lord Chief Just. Read those words again,

Clerk of Cr. We are all here very glad at the promotion of Mr. Tho. Harcourt, when I writ that the Patents were sent, although I guess for whom they were, yet I knew not for certain, because our Patrons do not to discover things or Resolutions, till they know they have effect.

Lord Chief Just. Now you have not interpreted well this neither.

Sir Cr. Levins. It is said, I knew not for certain who (they) were for; but to make it clear, I would desire Mr. Whitebread to answer me one Question, how long is it, Sir, since you were made Provincial?

Whitebread, The 14th of January was twelve-month.

Sir Cr. Levins. And this was dated the 5th of February, which was after your Commission.

Whitebread, That may be, and they not know till then.

Lord Ch. Just. And so you expound those latter words of the Letter, That the Resolution of making you Provincial was not discovered till the effect was known.

Whitebread, Because it is not known, whether the person that is nominated might not be excepted against: and it is Litera Patentes.

Lord Chief Just. But here is but one person to answer the word Patents, and there should be more than one man.

Whiteb. Every Patent is called Litera Patentes, though it be but for one person. Mr. Recorder, They were in great doubt that you would refuse the place, I warrant.

Dr. Oss. He is bound in pain of Damnation not to disobey his Superiours, if they chuse him to a place, he must take it upon him.

Whitebread, It is not the first, second, or hundredth time that one hath been appointed by the Superiour to a place, and hath refused it; and if I had known the hundredth part of what I do now, of the trouble of the place, I would never have accepted it.

Mr. Recorder. Ay, if you had known the difficulty of this Design, you would never

never have engaged in it, especially if you had known what is come to pass.
Whitebread, No, Sir, I never had a hand in any such thing in all my life: this is *con-*
ram Deo that I now speak, and as I am to appear before the great Tribunal at the day
 of Judgment, I know nothing of all this matter.

Dr. Oates, My Lord, these Parents, of which this Letter makes mention, a great ma-
 ny of them came down in the months of *April* and *May* before.

Lord Chief Just. Methinks he interprets them plainer than you do.

Lord Chief Baron, Now what have you to say every one of you for your selves, make
 your defence?

Lord Chief Just. Mr. *Whitebread*, do you begin.

Dr. Oates, While the Prisoners Evidence is calling in, I desire that my Witnesses
 may be sworn.

Mr. Just. Pemberton, Mr. *Oates*, be quiet, there is no need of it yet, till they have
 made their defence.

Lord Chief Just. But send for them that they may be ready.

Whitebread, My Lord, that which I have to say for my self is this, I thank God, my
 Lord, I am not afraid of death; but I should be very loth to die unjustly, and I hope
 your Lordship will consider, that every mans blood is dear to him, and is concerned
 for his own life to preserve it, he ought to be allowed liberty and freedom to preserve
 himself as much as he can. Life is a thing not to be thrown away, but charily to be
 lookt after, and that there is such a thing as taking away mens lives by Perjury as well
 as by a Knife or Pistol, is without contradiction, Now whoever comes against a man for
 his life, I suppose he is to be looked upon not only by the Prisoner, but also by the
 Jury and the Court, that he ought to be *Probus Testis*, and a man fit to be admitted
 to be a Witness. Now I have something to offer, That Mr. *Oates* is not any such per-
 son. Your Lordship was pleased to say, That he was the person who proved the De-
 sign mentioned in the Letter that was read. Now I hope your Lordship will give me
 leave (and I hope I may do it without offence to this Court) to say that he is perju-
 red in what he says.

Lord Chief Just. You mean that his Evidence is false, you may do it if you can.

Whitebread, He says he came over hither, and was here present the 24th of *April* with
 me, and that I did appoint him to do such and such things, and discovered the whole
 business to him. Now I desire your Lordship would be pleased to consider whether
 this were probable, and whether I had not been a very much mistaken man all this
 while to trust a man with such a business, and whether I ought not rather to be sent
 to *Bedlam* than *Newgate* for trusting such a man as he, whom by his own confession I
 never saw till that time. 'Tis not rational that a man would trust him; and then, my
 Lord, that this business should be discovered to him, a man that depended wholly
 upon us to live, and had no livelihood but what he had from us, who maintained him
 at Sr. *Omers* long as well as the best man in the house.

Lord Chief Just. Did you do it? *Whitebread*, Yes, my Lord, I did.

Lord Chief Just. You should consider how in that you answer your self.

Whitebread, I, that is, when I came to the Office, and I and my Predecessors.
 When I was Superiour I found him not a fit man for that purpose and design he pre-
 tended to. He was very zealous to be entertained amongst us, and theretore I desired
 him to absent himself,

Lord Chief Just. Why was he not fit to be employed among you?

Whitebread. For several reasons of our own: First of all it was doubtful, whether he was a good Catholick; for he had oftentimes maintained several Propositions that were not soundly Catholick: and then secondly, he led a very idle life, and he was not found a man we were obliged to accept of, and therefore we desired him to retire. And to that purpose we furnished him, gave him a good Suit of Cloaths, and a Perriwig, and four pounds in his purse, and he promised me to pay me again when he had sold his Library, which he said he had a very good one in *London*, but he never did. But that I should be so strangely overseen and mad, as at the first sight of such a man as this, to trust him with such a great intrigue as this was, and to write in such a plain strange manner, and send by Post to Mr. *Dugdale*, as your Lordship did and justly might wonder at, had been a madness. It was much that any man would write so plain of such a thing. But then my Lord, the chief thing is this, That I hope your Lordship will give us leave to produce our Witnesses to prove, that he was not from *Saint Omers* from the tenth of *December* till the 23d of *June* following, and never lay out of the House but one night from *December* till *June*.

Lord Chief Just. Name your Witnesses.

Whitebread. I desire first Mr. *Hilly* may be called.

Lord Chief Just. Call him; but I'll tell you what is strange, You say it is wonderful that you should trust a man you had so little Opinion of his Abilities or Fidelity, but I wonder that you should maintain him after that.

Whitebread. No, my Lord, we did not.

Lord Chief Just. You say you did.

Whitebread. No my Lord, he pretends he was here in *England* sent over by us, but we will prove he was not.

Lord Chief Just. But you maintained him abroad? *Whitebread.* That was before.

Lord Chief Just. Is it so great a wonder that you should take into your Confidence and Consultation that man, whom for a considerable time before you had maintained abroad?

Whitebread. But my Lord, I suppose there is some difference between charitable acts to a man in want and a Scholar, and trusting him with such an intrigue as this.

Fenw. Pray my Lord, be pleased to take notice, that this mans Evidence all along is, that he saw such and such letters from such and such persons. They have no Evidence but just that they saw such and such letters, and how is it possible that a man who was turned away from *Saint Omers* for his misdemeanours, that I should shew all my letters? No my Lord, I have had a thousand letters taken from me, not any of these letters had any thing of Treason in them, or soliciting of persons to come into *England*, let the letters be produced, and then your Lordship will see what is in them. All the Evidence that is given comes but to this there is but saying & swearing. I desire them all to give one probable Reason to satisfy any reasonable uninterested mans judgment how this could be.

Lord Chief Baron. There can be no reason given why you should sign an instrument to kill the King.

Lo C. J. You say there is nothing but saying & swearing, but you do not consider what you say in that matter. All the Evidence and all the Testimony in all Tryals is by swearing. A man comes and swears that he saw such a Bond sealed, or heard such words

words (spoken, this is saying and swearing, but it is that proof that we go by, and by which all mens lives and fortunes are to be determined. But then, say you, 'tis wonderful, that since they say they saw such and such letters, they should not produce them; why? they did not belong to them: Ay, but then say you, 'tis strange they should not find one letter in all those numerous papers that were taken that contains any traiterous matter; but I say, 'tis forty times more a wonder that one should be taken, than for all the rest to be undiscovered. I suppose Mr. *Harcourt* amongst those Papers that he let be surpris'd did not think that letter that hath been read to have been of such consequence, nor the sence of it to be so bad,

Fenwick, I dreamt no more of my apprehension when I was taken, than the day of my death, it was so unexpected, nor what I should be accused of: I had no fear of it, no thought of it, so that I took nothing out of the way. They took five or six thousand pound Bonds and Bills, besides letters; methinks something of the Effects of those letters might be produced, and some of the design appear. For God's sake, where are the Commissions signed, and monies paid?

Lord Chief Just. They talk of a Patent. Mr. *Whitebread* confirms it, that it is his Commission; if so, does it lie in *Oates* or *Bedlow's* power to shew that Commission? (this is just like that of the Bill of Exchange) neither does it in any of the letters,

Fenwick, Here is Mr. *Hilsly*, my Lord.

Whiteb. My Lord, we pray, we may have the favour that they may be sworn.

Lord Chief Just. North. By law they cannot.

L. C. J. In no Capital case against the King can the witnesses for the Prisoner be sworn, but I will say this to the Jury, That they are not sworn, is, because they cannot, but the Jury is to take great heed of what they say, and to be governed by it, according to the credibility of the person and of the matter.

Gavan, My Lord, if you please to give me leave; my Lord *Coke* in his *Institutes* says expressly, That there is no positive Law against it, his words are, there is not so much as *scintilla Juris* against it.

L. C. J. No. We know that the constant usage and practice is so, and you cannot produce any man, that in any Capital case had his witnesses sworn against the King.

L. C. J. My Lord *Coke* says otherwise, That the evidence should be so plain that nothing could be answered to it; and therefore no evidence should be sworn against the King.

Gavan, My Lord, these are the words of my Lord *Coo.*

L. C. J. You argue against the known practice of all Ages.

L. C. J. No. There never was any man in a Capital cause sworn against the King. The common Law is the custome of the Kingdom, and we are bound to know it, and must all be governed by it.

Whitebread, In Mr. *Ireland's* Tryal, pag 35, 36. he says, he came over with Sir *John Warner*, Father *Williams*, and Mr. *Hilsley* from St. *Omers*,

Mr. *J. Pem.* Nay, you must not resort to the printed Tryals for evidence.

Fenwick, If we can prove him perjured at any time, I hope we may.

L. C. J. Suppose upon the taking of those printed Tryals they mistake, shall Mr *Oates* therefore be thought guilty of perjury? If you have any thing to ask of your Witnesses which you can apply to the evidence given now, you may.

Fenw. Mr. *Oates*, did not you your self own then you came over with Mr. *Hilsly*?

Dr. Oates, Ask me any question about what I have given to day, and if the Bench think it reasonable to answer it.

Fen. My Lord, he did then affirm that he came over with these persons, in which he is forsworn.

L. C. J. He is not convicted of perjury, and therefore that must not be urged.

Fen. My Lord, we will prove by witnesses that were at the Tryal, that he did affirm so. And I desire now to know, if you Mr. *Hilly*, whether every you came over with Mr. *Hilly*,

Dr. Oates, That which I said then, and that which I say now, is, because you should not puzzle your selves) that one Mr. *Hilly* did come over with us when we did.

Hilly, My Lord, I did not.

Hilly, I left him at *St. Omers*.

L. C. J., How can you tell?

L. C. J., What say you Mr. *Oates*?

Dr. Oates, 'Tis true, Mr. *Hilly* did leave me at *St. Omers*, because he went out a Sunday morning, and I came out of the Monday morning, but I overtook him at *Calis*,

Hilly, My Lord, that is false, and I have a great many here that can prove it.

L. C. J., What Religion are you of?

Hilly, I am only to serve his Majesty.

L. C. J., Are you not to serve God too?

Hilly, I am first to serve God, and then his Majesty.

Mr. J. Pemberton, Are you a Catholick?

L. C. J., Are you a Roman Catholick?

Hilly, Yes, my Lord, I am.

Mr. J. Pemberton, Be not ashamed of your Religion, do not deny that, your Provincial here can give you a dispensation for what you say.

Hilly, I hope a Roman Catholick may be a lawfull witness?

L. C. J., Yes, I deny it not. This is that you say, you left him at *St. Omers*; you must call more Witnesses to back him: *Master Oates* says 'tis true you left him at *St. Omers*, but he overtook you at *Calis*.

Dr. Oates, This Gentleman lost his money at *Calis*, and *Father Williams* did relieve him by my means.

Lord Chief Just. What say you to that?

Hilly, Why my Lord, yes, it is true I did lose my money there, but it is nothing to the purpose, for I will affirm, I was never in the ship with him in all my life.

Dr. Oates, I desire he may be asked, whether he be in the degree of a Priest or not?

L. C. J., That would be a hard question to put to him to make him accuse himself. It would bring him into danger of Treason.

Mr. J. Pemberton, He is a Boy very fit to make a Jesuit of.

L. C. J., How could he then come to know this?

Hilly, I confess 'tis true, that Mr. *Oates* did never come over with me. And I have Witnesses to prove that they saw him there next day at *St. Omers*, and two or three several weeks after.

Sir Christopher Levins, Mr. *Oates* hath another Circumstance to prove it by.

Dr. Oates, He went away from us by the way, and did not come up with us to London.

Hilly, I know how he understood his: There was a Gentleman that the Witnesses will prove he was very familiar with the 2d. of May, that told him.

L. C. J., Is't a Gentleman here?

Hilly, He is one here to prove it.

L. C. J. And did he tell him how you lost your money?

Hilfly, Yes, my Lord, I suppose so.

L. C. J. I speak seriously, I do not understand how he could come by these things. Parry, my Lord, I can testify if it were lawful for us to swear, and prove that he was at Saint Omers that day, when he says he came over.

L. C. J. What is your name? Parry, my name is William Parry.

L. C. J. What Countryman are you? Parry, I am a Flintshire man.

L. C. J. When was he at St. Omers?

Parry, He was there that 25th. day, that day he says he came over.

L. C. J. Was he there all day? Parry, He did not stir thence all the day.

L. C. J. How can you tell that?

Parry, I din'd with him; that day he went into the Infirmary, he did not go out of the Colledge, he was sick.

Fenwick Mr. Parry, how long did Mr. Oates stay there, at St. Omers?

Parry He staid till after the 20th of June, I am sure; for on the 20th of June I know he was present by a very good circumstance, he was at an Action of ours, a Latine Play.

Dr. Oates. My Lord, as to the going into the Infirmary at that time, I deny it. My Lord, (if your Lordship please) I will shew that this Gentleman is not only a Votary of the Jesuits, but hath been one of the Sodality several years. And they have Dispensations, and are bound by an implicate obedience to say what the Jesuits bid them, who are their Superiours.

L. C. J. What say you to the 20th. of June, the time he says you were there at the seeing of the Play?

Dr. Oates, my Lord, as to that twentieth of June, I was there, and there was an Action at that time, for I was then returned thither from London.

Parry, I deny all that, for he never stir'd out of the Colledge.

L. C. J. Youngman, in what Quality were you there?

Parry. I was a Student there, a Poet.

L. C. J. How can you say he did not stir thence all the while?

Parry. I know by a particular thing; I din'd and supp'd with him there, but when he was in the infirmary, but the particular passage was this, He did there fall out with a Gentleman that was in the Infirmary too.

L. C. J. When was that?

Parry, It was at the time that he says he came away.

L. C. J. When went he?

Parry The 25th of April, Old Style, and staid a matter of three or four days.

Dr. Oates. Will you be pleased to take notice of this? he says that Hilfly left me at St. Omers when he came away, and that the next day he dined with me, and that I went into the Infirmary, which, he says, was the 25th of April, Old Style. Now we will run to argue ad hunc in this, were the 25th of April, Old Style, how did Mr. Williams meet with Mr. Hilfly at Calis, and restore him his money, when the 24th (old stile Mr. Williams was at the consistory in London?

L. C. J. When was it that you say Mr. Hilfly was at St. Omers?

Fenwick Answer my Lords Question.

Parry. He went away the 24th of April, as I Remember.

Lord Chief Just. What, Old stile?

Parry, Yes, old stile according to the reckoning there.

D. Oates. But, my Lord, upon the Oath that I have taken if he mean new stile, all that this Gentleman hath said about this is false, except that I was there the 20th of June.

Lord Chief Just. Was it new stile or old stile that you say Mr. Hilfly went away?

Mr. Recorder. He does not know new stile from old stile,

Parry. He went the 24th. that is the old stile beyond Sea,

Whitebread, I do desire he may answer, whether he does know that Mr. Oates was ever out of the house from the time he came in December till June, but one night.

Parry. No, he never was out but one night at *Watson*.

Lord Chief Justice, From what time to what time?

Parry. It was but two days and one night.

Lord Chief Just. What time was it that he was there first?

Parry. He came thither in December.

Lord Chief Justice, And he did stay there all the while?

Parry. He did not stir from the Colledge till the end of June; and never went out but a day or two, as I know of.

L. C. J. Not as you know of; but might not he go, and you not know of it?

Parry. I am sure of it?

L. C. J. How can you tell?

Parry. Not a Scholar goes from thence to *England*, but the whole Colledge rings of it.

Gaven. And then, my Lord, when they go out they go in *Secular Cloaths*, that none but must know when any person leaves the Colledge,

Dr. Oates, My Lord, in such cases, though true in a general sense, yet it is but a general Rule, and every general Rule admits of its exceptions, and my case was a particular Exception. I put on the habit of the House as soon as I did return from *London*, and did not appear as if I had gone out of the House, nor did I know that it was known that I had been out; for I did never appear in a secular habit.

Whitebread, What his Cloaths were, does not change the place he sits in; he being ancients than the Boys, had a privileged to sit in a particular place, which must be known to all the House at Dinner and Supper. He was visible every day there.

L. C. J. I do believe it; and therefore he says, not only that he was reported to be there, but that he saw him there almost every day.

Then another Witness for the Prisoner stood up.

L. C. J. What say you, young Lad?

Doddington, I say, my Lord—

L. C. J. What is your name?

Doddington,

Doddington.

Dr Oates, Pray, my Lord, ask him if he went by that Name at *St. Omers*.

Mr. J. Pemberton. What was your Name at *St. Omers*?

Do Doddington My name was *Hollis* there.

L. C. J. How old are you?

Doddington Eighteen years and an half.

L. C. J. What can you say? where was *Mr. Oates*?

Doddington, He never went out of the Colledge, but one night to *Watson*, till the end of June.

L. C. J. When came he into the Colledge?

Doddington. A fortnight before *Christmas*, I did not mind the day, he says himself it was the 10th of *December*.

Lord Chief Just. Was he there till *June*?

Doddington. Yes, he never went out till *June* but one night.

Lord Chief Just. Where was that? At *Watton*? **Doddington.** Yes, my Lord.

Lord Chief Just. How do you know that?

Doddington. I only know that by what all the house said.

Lord Chief Just. Did you see him every day, except that day?

Doddington. I cannot say I saw him every day, because he was in the Infirmary once, and he was there that very day after *Mr. Hussy* went away.

Lord Chief Just. What day was it that *Mr. Hussy* went away?

Doddington. The 24th of *April* new stile; and that day he fell sick, and went into the Infirmary the next.

Lord Chief Just. What day of the week was that? **Doddington.** It was of a Sunday.

Lord Chief Just. And when did you see *Mr. Oates*?

Doddington. On Monday or Tuesday, I am not certain.

Lord Chief Just. How often did you see him from the 24th of *April* to *June*? Did you see him every other day?

Doddington. Yes, that I am sure of, for every other day, I am not certain every day.

Lord Chief Just. Are you positive?

Jury. We desire to know what time of the year he was in the Infirmary.

Doddington. I discoursed with him in the Infirmary two or three days after *Mr. Hussy* went away.

Lord Chief Just. But what time of the year was it?

Doddington. He was there first in Winter, and then afterwards he was in at this time, which was in *April*.

Lord Chief Just. Have you any more to say?

Doddington. I can say more, that I saw *Mr. Oates* the second of *May* with one *Blood Burnaby*, and I am sure I saw him in his company.

Lord Chief Just. Where did you see him?

Doddington. I saw him walking in the Garden with *Mr. Burnaby*.

Mr. Just. Pemberton. When did you come into England?

Doddington. I came over the 24th of *April*.

Lord Chief Just. How long have you been in England?

Doddington. About two months.

Mr. Just. Pemberton. Why did you come over, were you sent for over upon this occasion?

Doddington. No, I was not.

Mr. Just. Pemberton. Why did you come over?

Doddington. I came over partly upon the Kings Proclamation.

Lord Chief Just. What Proclamation was that?

B. C. Just. North. That those that were in the Seminaries should come over again.

Doddington. And partly because I had not my health.

Penwick. *Mr. Gifford*, what do you know about *Mr. Oates's* coming from *St. Omers*?

L. C. J. When came you from *St. Omers*?

Gifford. I came over about a month ago.

Lord Chief Just. Upon what occasion?

Gifford, To justify that Mr. Oates was there all the while that he says he was here.

L. C. J. You speak like an honest man, there is no hurt in that.

Fenwick, we did send for him over.

L. C. J. When did you see Mr. Oates there?

Gifford, I saw him the first of May was twelve-month with us, and the 21. of April.

L. C. J. And how long after that?

Gifford, I was in his Company for a whole week after, I am sure.

L. C. J. You say the first of May he was there, how can you tell?

Gifford, The first of May there came one Mr. Burnaby to the Colledge, and he fell into acquaintance with him, and I saw him with him. He was with us an whole week at least every day after dinner. We have an hour always after dinner to recreate in, and this Gentleman was there with us and Mr. Burnaby; for Mr. Oates seeing us in the Garden at first, put himself into our company, and kept with us.

L. C. J. Was he not in the Infirmary? Gifford, Not at that time, my Lord.

L. C. J. When was he in the Infirmary? Gifford, The day after Hilfy went away.

L. C. J. Do you remember that? Gifford, Yes, I do.

L. C. Just. North. How long did he stay in the Infirmary? Parry, About three days.

Lord Chief Just. And for how long together did you see him after Mr. Hilfy's departure?

Gifford, I can swear that I saw him at least till June, if I can believe my own eyes.

Lord Chief Just. Your Religion does not allow you to believe your own eyes.

Gifford, I can in my conscience say, I believe I did see him every day or every other day.

Lord Chief Just. Which do you say, Did you see him every other day, or every day?

Gifford, If I say he saw him every other day, that is sufficient.

Lord Chief Just. Do you know that he went out of the Colledge at any time?

Gifford, Yes, he went for one night.

Lord Chief Just. Whither?

Gifford, To a place called Watton.

L. C. Just. What did he go thither for?

Gifford, For his Relaxation.

Lord Chief Just. How came you to take such particular notice of him that he was there?

Gifford, It is impossible but we should see him, and take notice of him, for we dine all together in one Room, and we could not but take notice of him, for he was at a distinct Table by himself.

Lord Chief Just. How many are there that dine in one Room?

Gifford, One hundred and fifty.

L. C. J. How could you know him when there were so many?

Gifford, He was at a distinct Table by himself, between the Boys and the Religious.

Then stood up another, one Palmer.

L. C. J. Well, what do you ask him?

Fenwick. The same Question as the rest.

L. C. J. When came you from St Omers?

Palmer, I came two or three months ago.

Lord Chief Justice, Why did you come over?

Palmer, I had no mind to stay any Longer.

L. C. J. Where does your Father live? *Palmer, By Windsor.*

L. C. J. When did you see Master Oates?

Palmer, I saw him the first day of May new stile, and I know it for a particular reason there were strangers dined at the Colledge that day, whereupon Mr. Oates, and several other Boys played at Nine pins, in the Afternoon I saw them.

L. C. J. Why, you do not count a 4 Boys there, do you?

Palmer, All but those that are the Religious.

L. C. J. Why, you did not count Mr. Oates a Boy, did you?

Palmer, He was none of the Religious: He sat indeed at a Table by himself, but he went to School with the Boys, and we called all the Scholars Boys.

Lord Chief Just. How often did you see him?

Palmer, I'll tell your Lordship, I saw him the first of May, for that reason; the second of May I saw him with Master Burnaby, a man that he had never seen in all his life before, and we wondered that he had so much impudence to intimate himself into his company.

Lord Chief Just. What is he?

Palmer, He is a Gentleman that is now in Flanders.

Lord Chief Just. How do you know that Master Oates had no acquaintance with him before?

Palmer, Because I know he was in England, and came over while Master Oates was actually at St. Omers.

Lord Chief Just. But he might be of his Acquaintance in England.

Palmer, I heard Master Burnaby say, he never saw Master Oates in all his life before: The second of May I saw him at the Action, the fifth of May Master Killingbeck went away, and I saw Master Oates actually there then, and one Master Poole went away, and I remember Oates was there for a particular reason; he was a kind of a weak man, something soft, not over-wise, and we were asking him why he would go away by himself, and talking of it afterwards, says Master Oates, I will not say positively those were the words, but that was the sense, He does not go alone, for there goes Esquire Poole and Esquire Fool together. The eleventh day we had an Action, a Play also whereupon there was a particular place for the Musicians to play in, where no one else was to sit; Master Oates would sit there, and thereupon there was one Master Watson quarrell'd with him, and they had like to have fought.

Lord Chief Just. This was the 11th of May?

Palmer, Yes, my Lord, new stile, and the other was the 5th.

L. C. J. But you saw him betwixt that time?

Palmer, Yes, my Lord, I did.

Lord Chief Just. And so for how long?

Palmer, I saw him at four a clock in a morning reading Father Worsleys Controversies, and so for several days together.

Fenwick, Did he go away before June? *Palmer, No, he did never stir till June.*

Sir Cr. Levins. Did not you go sometime by the name of Sanders or H.D?

Palmer, No, only by the name of Thomas Palmer.

Sir Cr. Levins, Heark you Sir, who maintained you at St. Omers? Do not you know one Mr. Caryl?

Palmer, No my Father maintained me.

Lord Chief Just. Who is your Father?

Palmer, Sir Philip Palmer.

L. C. J. What Country Gentleman is he?

Palmer, Buckinghamshire.

Mr. Just. Pemberton, He is Cup bearer to the King.

Then stood up one Master Cox.

L. C. J. How long have you been from St. Omers?

Cox, Two months.

L. C. J. What Country man are you?

Cox, I was born at Brussels to serve you.

L. C. J. Do you know Master Oates?

Cox, Yes, I did very well.

Lord Chief Just. Where?

Cox, At Saint Omers.

Lord Chief Just. When?

Cox, I left St. Omers seven months ago, and I came away in the month of November after Master Oates. My Lord, I can prove that he was there in April and May. I went from St. Omers to Brussels, and from Brussels I came straight to London.

Lord Chief Just. But when did you see Master Oates there?

Cox, I can prove I saw him at St. Omers when he says he was in England, and that by this circumstance, Master Pool who was my Musick Master was sick there, and Mr. Oates was often with him.

Lord Chief Justice, Were you there all the time he was there?

Cox, Yes, I was, till he went away.

Lord Chief Just. When did he go away?

Cox, Master Oates went away in the month of July.

Lord Chief Just. Are you sure of that?

Cox, Yes, my Lord, I am.

Lord Chief Just. Not in June?

Cox, No, my Lord, July.

Lord Chief Just. Why he differs from all the rest?

Cox, My Lord, I can prove he was at St. Omers when he says he was in England.

Lord Chief J. Why what month did he go away?

Cox, My Lord, I can prove that Mr. Oates was never absent from St. Omers, till he went away for good and all.

Lord Chief Just. When was that?

Cox, He went after the Consult of the Jesuits, which he says was in England in April.

Lord Chief Just. Come, come, Answer me plainly if you can in what month Mr. Oates left St. Omers?

Cox, I say Mr. Oates was never absent from St. Omers till the Consult of the Jesuits, was over, which he hath confessed himself to be at.

Lord Chief Just. When was that?

Cox, Why it was after May, 'tis no matter what the month was whether June or July. *(as which the people laughed.)*

Cox, What do you laugh at Sirs? Why, suppose I mistake the month it is no matter.

Lord Chief J. Look you we are now upon a Question of time, and you cannot tell that a man is there at a certain time, unless you can prove the certain time when he came away?

Cox, I can prove that he was there till after the Consult of the Jesuits, (and then the people laughed again.)

L. C. J. Ay, I believe you there, 'tis enough for you, but you have done a very great prejudice to those persons that you came for, for you come to prove the conclusion, but

but do not take notice of what Mediums you are to use. Say you, if I can but prove that he was there till after the consult of the Jesuits, that is the thing in Question, and I need no more, but this is serving a turn only: Pray can you tell me what month he came to S. Omers?

Cox, Yes, he came thither in the month of December.

L. C. J. And when did he go away again?

Cox, He was never absent from St. Omers out of the view of the Scholars, except one night that he went to *Watton*, and one day when he was in the Infirmary, but even at that time he was seen by some of the Scholars.

L. C. J. Yet you cannot tell the time that he went away?

Cox, He was never absent all the while.

Mr. Justice *Windham*. Do you know when the Consult of the Jesuites was? upon what day?

Cox, He says he went away with Mr. *Hisley*, but he did not, I can prove the contrary.

L. C. J. No, no, he says he followed him and overtook him at *Calis*.

Cox, That is false, and I can prove it by this Circumstance: one Mr. *Conquest* was to go for *England* that day, and he came into the Refectory, and told us a story of this Mr. *Conquest* being unwilling to rise in the morning to go for *England*.

L. C. J. When did he tell that story?

Cox, That day that he was to go for *England*,

L. C. J. How long was that after Mr. *Hisley* went away?

Cox, The day after

Gaven. When was the time that Mr. *Conquest* went for *England*?

Cox, In the month of *May* as we count.

L. C. J. What time in the month of *May*?

Cox, It was the fifth: and he says that Mr. *Pool* and Mr. *Nevill* were in *England* with him, but I can testify that they were not absent, for one of them was my musick-master.

Lord Chief Just. Was he there all *May*? Cox, Yes, that I can testify upon my Oath.

L. C. J. And all *June*?

Cox, Yes, my Lord, but if I prove he was not in *May* in *England* it is sufficient.

L. C. J. Upon my word you deserve a sharp penance for running into that fault 2 or 3 times: you have done them no kindness in this matter.

Gaven. If your Lordship will take advantage of every Circumstance, young men may not remember the particular day of his going away.

L. C. J. But you hear how he delivers his Evidence, 'tis as if he had been instructed, you must come and prove that *Oates* was not in *England* in *April* and *May*, and that will do our business, for he tells you it is sufficient, but we will have it proved to satisfy us.

Cox. But why should I say more than I know?

L. C. J. You mean, more than you are instructed about. I only ask you one short question, Do you know when Mr. *Oates* left St Omers? Name the month.

Gaven. If you don't remember the time, say so?

Cox My Lord, I cannot Remember it.

L. C. J. Then call another.

Who stood up.

Dr. *Oates*, My Lord, I desire they may be Examined apart.

L. C. J. You need not trouble your self about that. What is your name?

Billing. My name is *Thomas Billing*.

L. C. J. When came you from S. Omers?

Billing I came 3 moneths ago I think my Lord.

L. C. J. Do you know Mr. *Oates*?

Billing Yes, my Lord, very well.

L. C. J. When did you see him at St. *Omer*?

Billing My Lord, I saw him when he came the same day, or the day after.

L. C. J. When was that?

Billing In December my Lord, the 10th. of December.

L. C. J. And he staid there how long?

Billing Till the latter end of June.

L. C. J. was he never absent?

Billing I can very well remember that he went to *Watson* in the *Christmas*. I was then in the Infirmary my self, and he and his Companion came in there to see us, and said he had been at *Watson*.

L. C. J. But he was twice in the Infirmary, was he not?

Billing Yes, my Lord.

L. C. J. When was the second time?

Billing The second time was in April, I went in the week before *Christmas*, on St. *Thomas* of *Canterbury*'s day I came out again.

Lord Ch. Just. But you say the second time was in April?

Billing Yes.

Lord Ch. Just. How long was he there then?

Billing Truly I was not with him then, but I think 3 or 4 days.

Lord Chief Just. Were you in the Colledge then?

Billing Yes my Lord I was.

Lord Ch. Just. Did you see him in the Colledge from time to time?

Billing Yes, I did.

Lord Ch. Just. How long?

Billing For all the time that he staid.

Lord Ch. Just. How long was that?

Billing That was from December till the latter end of June.

Lord Ch. Just. Was he there all May?

Billing Yes, my Lord. He says he was 8 days in England, but he could not be so, for he entred himself into the Sodality the 25th of March, and not long after his admission, he was put to read every Sunday morning at 6 a Clock. And after that he began once to read he never was absent from that time, till the time he went away.

Lord Ch. Just. Why did he read when he was sick?

Billing He was not sick upon the Sunday.

Lord Ch. Just. You say he was sick in April?

Billing Yes my Lord.

Lord Ch. Just. But was he not sick of a Sunday in April?

Billing He was only a little indisposed, and frequented the infirmary in the day time for a matter of 3 or 4 days.

Lord Ch. Just. Did he read at the time he was sick in the infirmary?

Billing He was not sick an whole week.

Lord Ch. Just. Did it reach to a Sunday?

Billing No, my Lord that I remember.

Lord Ch. J. How long did he continue there?

Billing Til towards the latter end of June.

Lord Ch. Just. Did you see him once in 2 or 3 days?

Billing Yes my Lord I did constantly. And upon the second of May, I very particularly remember, looking out into the Garden, I saw Mr. *Blount* walking in the Garden, and Mr. *Oates* with him: And observing him to be very intimately familiar with him, I asked some that were with me, Does this *Sampson*, for he went by that name in

In the Colledge, says I, does Sampson know Dick Blunt? no said they, and we wondered at his confidence having no greater acquaintance. I saw him that day walking in the Garden with that Blunt.

L. C. J. That was the second of May?

Billing, Yes, my Lord.

L. C. J. And he was constantly in this Gentlemans company that day?

Billing, Yes, and moreover the same day this Sampson was walking with one John Rushion in the Garden, and seeing me walk alone, Thomas, says he have you never a companion? No Sampson said I, well said he pribe come to us. So I was with him walking a little while, and then this Blunt and one Henry Howard were playing one with another, throwing stones at one anothers Shins. At which he was displeased, and said if they would not be quiet he would go tell the Rector. Howard was hasty and spoke angrily to him, and said if he would not be quiet he would beat him: But Mr. Oates persisting, and daring of him, says he, what do you dare me? and come up to him and throw up Mr. Oates his heels, With that Mr. Oates tooke very fiercely upon him and withdrew himself into the Infirmary, as we thought to speak to the Rector. And by these particulars, and such as these I remember to have seen him every day, one day with another, or every other day at St. Omers till he went away which was in June.

Then stood up another, one Townley.

L. C. J. Come Mr. Townley, do you know Mr. Oates?

Tom. Yes, my Lord.

L. C. J. When came you from St Omers?

Townley I came a week before Easter.

Lord Ch. Just. When saw you this same Mr. Oates at St. Omers?

Townley. I saw him in June.

Lord Ch. Just. When else?

Townley. In May.

Lord Ch. Just. When else?

Townley. In April.

Lord Ch. Just. Was he there in all April, all May, and all June?

Townley. No, not all June. He went away as I take it about the 10th of June?

Lord Ch. Just. Pray how often did you see him? Did you see him every day?

Townley. I conversed with him every day. He was partly a Scholar and partly a Father: and sat at a Table by himself. He went to School as a Scholar: 'Tis true indeed, he did not learn as the rest of the Boys did, but he went to School as the Boys did, and was at a Table, from the Fathers as the Boys were, but apart and alone.

Lord Ch. Just. But how often did you see him? was it every other day?

Townley. Yes, I believe I did.

Lord Ch. Just. What for all April and all May?

Townley. Yes.

Lord Ch. Just. How came you to take such particular notice of it that you can say, you saw him every other day?

Townley. If I constantly dine with one, or if he beat a single Table alone, he cannot be absent, but I must take notice of it: and he was neither as a Father nor as a Scholar but betwixt both, and therefore the more to be taken notice of.

Lord Ch. Just. This then you say, He sitting by himself and being distinct from all the others, you might more easily observe his absence than any others. This is that you say?

Townley. Yes, my Lord.

Lord Ch. Just. You say well. Call another.

Then stood up one Fall.

Lord Ch. Just. When came you from St. Omers?

Fall, about Two months ago.

Lord Ch. Just. When did you see Mr. Oates?

Fall, I saw him when I was in my Syntax, and now I am in Poetry.

Lord

L. C. J. What moneth did you see him in?

Fall. When he came first as I remember it was at Christmas.

L. C. J. Christmas last? **Fall.** N^y, it was Christmas was twelfth month, Christmas 1677.

L. C. J. How long did you see him there?

Fall. I saw him there from that time till June, only when he was at *Wotton*.

L. C. J. Was he never sick? **Fall.** I saw him in the Infirmary my self.

L. C. J. How can you tell when a man is sick?

Fall. I do not pretend to do that, but he was in the Infirmary as a sick man.

L. C. J. How came you to take particular notice of it?

Fall. I took no particular notice, but I have recollected my memory.

L. C. J. Upon what occasion? **Fall.** Upon this occasion.

L. C. J. How often did you see him? **Fall.** I saw him every day.

L. C. J. How long have you been in the Convent?

Fall. My Lord I have been there two years and an half. Then stood up **John Hall.**

L. C. J. When came you from St. Omers? **Hall.** In July my Lord.

L. C. J. How long have you been there? **Hall.** Seven years and upwards.

L. C. J. How long is it since you came from thence?

Hall. In July in the year 1678.

L. C. J. And did you see M^r. Oates there then? **Hall.** No, my Lord.

L. C. J. When did you see him there then. **Hall.** I saw him there in April, May, & June.

L. C. J. What all June? **Hall.** No, my Lord.

L. C. J. How long in June?

Hall. He went away about the Twenty third of June.

L. C. J. How came you to take such particular notice Mr. Oates was there all this while? **Hall.** I was a servant there.

L. C. J. In what way? **Hall.** A Reckonour, a Butler.

L. C. J. Did you keep Books of what meat and drink they had?

Hall. No, I laid their Table, drew their Beer and laid the Bread.

L. C. J. And did you serve Mr. Oates with bread and Beer every day?

Hall. Yes my Lord, most Dayes.

L. C. J. Did you serve the Infirmary? **Hall.** No, my Lord.

L. C. J. But you say you served him every day?

Hall. Yes, my Lord, the most of the time he remained there, I acknowledge he was in the Infirmary.

L. C. J. How long? **Hall.** Four or five days, or thereabouts.

L. C. J. Was he in the Colledge in April? **Hall.** Yes my Lord, all along.

L. C. J. And all May?

Hall. Yes my Lord, I saw him all May, I laid his Table neer the door at a particular place where he always sate.

Jury. My Lord, we desire to know what employment he is of now?

L. C. J. **Hall.** what made you come into England?

Hall. My Lord, I had not my health there.

L. C. J. How long had you lived there?

Hall. Seven years and upwards.

L. C. J. And when began you to be sick?

Hall. I had not my health at Christmas in December, 1677.

L. C. J. What employment have you here, for you had a good place there?

Hall.

Hall, I live at home with my Father and my friends.

L. C. J. What is your Father? where lives he?

Hall, He is a Gentleman; he lives in *Radnorshire*.

L. C. J. When came you to London?

Hall I came to England in July, 1678.

L. C. J. But you say your Father is in *Radnorshire*, when came you here to London?

Hall, I have been here about a month, I was summoned up as a Witness.

Then one *Dalison*, was called who did not appear, and one *Marshall* appearing, but speaking *French* and no *English*, and an Interpreter not being ready, he was for the present, by the consent of the Prisoners set aside. And then stood up one *Cooke*.

L. C. J. When came you from *St. Omers*?

Cooke, In *January*, Last.

L. C. J. And where have you been ever since?

Cooke, Here in Town my Lord.

L. C. J. Does your Father live here in Town?

Cooke, No, my Lord.

L. C. J. Do your friends live here?

Cooke, No, my Lord.

L. C. J. You came over upon this occasion did you?

Cooke, Yes, my Lord.

L. C. J. When did you see *Mr. Oster* there?

Cooke, I saw him in last *June*.

L. C. J. And was he there in *July*?

Cooke, No, my Lord.

L. C. J. What time did he go away?

Cooke, The 23^d, the Eve of the Feast of *St. John Baptist*.

L. C. J. How do you know?

Cooke, I made him some Clothes:

L. C. J. Are you a Taylor?

Cooke, Yes.

L. C. J. How often did you see him?

Cooke, Every day:

L. C. J. How came he to keep you company?

Cooke, I could not chuse but see him, sometimes I saw him 20 times a day.

L. C. J. Where was he in *April*?

Cooke, He was there all *April*.

L. C. J. He might be absent one day or so, and you see him not,

Cooke, He used to come twice a week to my shop for things.

L. C. J. Was he there all *May*?

Cooke, Yes.

L. C. J. You say you saw him every other day?

Cooke, Yes, my Lord.

Sir Chr. Levins Why Sir there are 150 Scholars there, how can you tell he was there so well?

Mr. J. Pemberton: Can you tell every one that was there all that time?

Cooke, No, I can't tell every one that was there, but he was particular enough.

Lord Chief Just. Did you live in Town as a Taylor or in the Colledge?

Cooke, In the Colledge.

Mr. Belwood, Was *Mr. Oster* at *Watton* any part of the time? *Cooke*, Yes, he was.

Mr. Belwood, What day? what month?

Cooke, I cannot justly say the day, but it was in *April*.

Lord Chief Just. How long was he absent?

Cooke, Only one night as it shall please you.

Mr. Just. Pemberton, Heark you, how came you to take notice that he was at *Watton* one night?

Cooke, It was talked of among all the Scholars.

Lord Chief Just. How can you remember what was said a year ago of one man?

Cooke, It was reported all over the House.

Gaven, In one place of his Narrative, he says, he came over with *Sir John Warner*, and *Sir Thomas Preston*.

Lord Chief Just. North, That is nothing to the purpose. If you can contradict him in any thing that hath been sworn here, do.

Gavin, If we can prove him a perjur'd man at any time, we do our business.

L. C. J. You should have proved him a perjur'd man before. How can we prove one came in another? and then too he had been provided to make his defence. Can he come prepared to make good every thing that he hath said in his life?

Dr. Oates, Can I come to make good my Evidence against all I have done in my life?

Lord Chief Just. Look you, if so be he hath sworn himself in any former Tryal, if that would appear you have all the reason to make use of it, but you have not taken the right way, you should have indicted him and try'd him for perjury in the former Trial, and then he could not have been heard at all in this.

Whitebread, We were all Prisoners close shut up.

Lord Chief Justice, We know you have a party wrong enough, and willing enough to convict him of perjury if they could; but look you Gentlemen here is the thing, if you can give such Evidence as will satisfy the Jury that he was absent all April and all May you have said a great thing. His Evidence will be quite contradicted.

Whitebread, He says he came over with Sir Thomas Preston and Sir John Warner and others.

Lord Chief Just. He says nothing of it now.

Dr. Oates, May it please you my Lord, I will answer it if you please.

Lord Chief Just. They desire to know who came over with you when you came over in April.

Dr. Oates, I will tell you, and to convince the Court, that in neither of the Trials I did contradict my self, I say, I did name some persons at one time that I did not name at another. There came over with me the Rector of Liege, Sir John Warner, Father Williams, Father Massey, Father Warner, Sir Tho. Preston and others.

Lord Chief Just. This is dealing plainly with you.

Then stood up one *Bartlett*.

Lord Chief Just. What Countrey-man are you?

Bartlett, I am a Dutch man.

Lord Chief Just. Can you speak English?

Bartlett, Yes a little.

Lord Chief Just. When came you from Saint Omers?

Bartlett, I came from Saint Omers the 23 of May in the year 1678. new stile.

Gavin, My Lord, this man is come over to testify, that Oates is perjur'd in a circumstance about Sir John Warner.

Lord Chief Just. He is to contradict Mr. Oates testimony, for he says he came over with Sir John Warner, and you say Sir John did not come at that time.

Gavin, Yes.

Lord Chief Just. Well when did Sir John Warner come over from Saint Omers?

Bartlett, Whither?

Lord Chief Just. Into England?

Bartlett, Sir John Warner hath not been in England all May, and all the month of April.

L. C. J. Where was he?

Bartlett, He was at Warrington. I did see him there.

L. C. J. Were you there all that time?

Bartlett, Yes, I was.

Lord Chief Just. North, Were you there all May?

Bartlett, Yes, I was.

L. C. J. When did you come over into England last?

Bartlett, The 23rd of May.

L. C. J. How long have you been in England?

Bartlett, About 5 or 6 weeks.

Lord Chief Just. What is your Name?

Bartlett, My Name is *Bartlett*.

Lord Chief Just. But you say that you came over the 23rd of May.

Bartlett, I did not come over till the latter end of June.

Lord Chief Just. Just now you said, you came over the 23rd of May.

Bartlett, No, my Lord, I thought you had asked the question when Mr. *Oates* came over.

Mr. Just. *Pemberton*, He says so, as your Lordship says before:

Lord Chief Just. How do you know when Mr. *Oates* came over?

Bartlett, I heard so beyond Sea.

Then one *Carlier* a Foreigner appearing, and not being able to speak English, Mr. *Tisser* the Under-sheriff of Middlesex was sworn truly to interpret his Testimony.

L. C. J. Mr. *Tisser*, you are only to tell us what he says. Ask him when he came into England last.

Mr. *Tisser*, He says, my Lord, it was between seven and eight weeks ago.

Lord Chief Just. Ask him, if he knows where Sir *John Warner* was last Summer was a year ago.

Mr. *Tisser*, He says, my Lord, he was in *Watton* for two years last past.

L. C. J. Ask him where he was all April was twelvemonth, and all May.

Mr. *Tisser*, My Lord, he says, that the last Sunday in April, Sir *John Warner* was at his house at *Watton*.

Lord Chief Just. And where was he all May?

Mr. *Tisser*, In the same house.

Lord Chief Just. Ask him how he does know.

Mr. *Tisser*, My Lord, he saith, that he was a Gardener there.

L. C. J. It seems he says to the same effect as the last Witness did. Call another.

Who did stand up.

L. C. J. What is this mans name? *Gaven*, His name is *Charles Verron*.

L. C. J. Does he speak any English? *Gaven*, No, he does not.

L. C. Just. Then, Mr. *Tisser*, ask him if he knows Sir *John Warner*, and where he was April and May was twelvemonth.

Mr. *Tisser*, He says, my Lord, that he was at *Watton* all April and May, and continued there till September.

L. C. J. Pray ask this man what quality he is of there.

Mr. *Tisser*. He goes along with a Vessel between Saint Omers and *Watton*, and that he knows it to be true.

Lord Chief J. Ask him, if he did see him every day.

Mr. *Tisser*, He says, generally, my Lord, dayly.

Lord Chief Just. Ask him what Religion he is of.

Mr. *Tisser*, He says he is of the Roman Religion.

Then stood up one Baillee.

Lord Chief Just. Ask him, Mr. *Tisser*, if he knows Sir *John Warner*; and where he was all April and May was twelvemonth.

Mr. *Tisser*, He says the same, that he was at *Watton* all April and May.

Lord Chief Just. Ask him how he can tell.

Mr. *Tisser*, He says he is a Servant of the House.

Lord Chief Just. And did he see him there daily ?

Mr. Tisser. My Lord, he says that he gave him directions to make a Bastiment, that he is a Mason, and that he did give him directions daily about it, and that he saw him every day.

Lord Chief Just. Look you, Gentlemen of the Jury, he speaks to the same purpose that the three Witnesses before spoke to ; he says he is a Mason, and that he built a Bastiment there by direction from Sir John Warner, and that Sir John Warner came daily to give directions about it.

Then stood up John Joseph.

L. C. J. Do you know Sir Thomas Preston ? *Joseph,* Yes, my Lord,

L. C. J. When did you see him ? *Joseph,* In the months of April, May and June :

L. C. J. Where was he then ? *Joseph,* He was at the English House at Liege.

Lord Chief Just. Did you see him there ? how often did you see him there ?

Joseph, I saw him there every day almost.

Lord Chief Just. What occasion had you to see him ? what were you there ?

Joseph, I was Porter of the Gate.

Lord Chief Just. And did you see him all the month of April ?

Joseph, Every day, most commonly.

Lord Chief Just. Did you see him once in a day or two ?

Joseph, I did see him in April, May and June.

Lord Chief Just. That you might do ; but did you see him very day ?

Joseph, Every day most commonly, I cannot absolutely say, but two or three days in a week.

Sir Cr. Levins, Pray do you know of any time that Sir Th^o. Preston was absent from Leige.

Joseph, He was in the time of the vacancy.

Sir Cr. Levins, Was he not absent in April or May ? *Joseph,* No, my Lord.

Lord Chief Just. When are the vacancies ? *Joseph,* In August, my Lords :

Then stood up one Peter Carpenter.

Lord Chief Just. Do you know Sir Th^o. Preston ?

Carpenter, Yes, my Lord, very well.

Lord Chief Just. Where did you know him ? *Carpenter,* I knew him at Leige.

Lord Chief Just. How often did you see him there in April and May.

Carpenter, Every day I saw him there all April and May.

Lord Chief Just. What Office had you there ? *Carpenter,* I was Caterer.

Gaven. My Lord, we have no more Witnesses as to this point. But, my Lord, my Case is different from the others : Mr. Oates says he did not see me in the Congregation, but he says, he afterwards saw my hand to the Consult. Now, my Lord, I have a Witness to prove that I was at that time at Wolverhampton in Staffordshire. No body hath a right to sit in the Congregation till he become a professed Jesuit, which at that time I was not.

Lord Chief Just. He does not charge you to have been there, though he says he saw your hand to it.

Gaven. My Lord, I was then in the Countrey.

Lord Chief Just. North. That will do you some, and yet but little service, if you can prove your self at Wolverhampton at that time : but call your Witnesses.

Lord

L. C. J. *Mr. Gaven*, he says, he saw a Letter of yours giving an account how affairs stood in *Staffordshire* and *Shropshire*, and that afterwards in *July*, and before that Gentleman *Mr. Ashby* went to the Bath, he heard you discourse of the same matter: And though he cannot charge his memory to say he saw you the 24th of *April*, yet, says he, I did see his hand to the Consult; and being asked how he knew your hand, he says he knew it by your writing a Bill of Exchange in his presence.

Gaven. I could not sign the Consult at *London*, and not be at *London*.

Lord Chief J. *North*. I believe in such a business you care not how many hands you have; but we will not prevent you calling your Witnesses, You are upon your life, don't spend the time, call them quickly.

Lord Chief Just. What do you call them to prove?

Gaven. To prove that I was at *Wolverhampton* the 24th and 25th of *April*.

Lord Chief Just. Pray hear what he says himself. You say, Sir, you saw his hand to the Consult that was in *April*; pray when was it that you saw it?

Dr. Oates. It was in *June* or *July*.

Lord Chief Just. *North*. You might set your hand afterwards to it, if you were not there then.

Lord Chief Just. You say you were then in *Staffordshire*, and might not you see your hand afterwards when you came to *Town*? I will tell you, *Mr. Gaven*, in *April* they met, and had such a Resolution; you were then in *Staffordshire*, might not you come to *Town* in *July* following, and set your hand to what was agreed in *April* before? And you cannot contradict him, but by shewing that all *June* and *July* you were not here: For if you prove your self never so much to have been at *Wolverhampton* in *April*, that will not serve the turn. You seem to make a very great defence of this: All that *Mr. Oates* says, is, that the 24th of *April* he was present where there was a Consult had about the death of the King, and divers persons set their hands to the Resolve. *Mr. Gaven* afterwards was in *Town*, and then, says he, I saw his hand set to the Consult: I will not charge my memory to say he was present, but I will tell you why I believe it was his Hand, because I saw him draw a Bill of Exchange, and that was just like the same Hand.

Gaven. Aye but, my Lord, I was not here in *April*.

Lord Chief Just. But this proves, in effect, that you set your hand to the thing afterwards. And now if you should prove your self never so plainly not to have been there in *April*, you do not come to the thing: it is still a *non liquet* whether you were here in *July* or no. And *Mr. Oates* does not positively charge you as to *April*. Well, call your Witnesses, and prove what you will.

Catherine Winford was called, and appeared.

Gaven. I desire you would be pleased to ask her, where I was the 23th of *July*.
Winford. My Lord, I am very sure he was a Sojourner at our House the most part of the Summer, in *June* and *July* both: In *July* the 23th he went away from my House, and took another Lodging more convenient for that which he had to do.

Lord Chief Just. Where? in what *Town* was this?

Winford. At *Wolverhampton* in *Staffordshire*.

Lord Ch. Just. was he never away from you all that time?

Winford. No, and then he went to another Lodging in the *Town*.

Lord Ch. Just. Do you say that he sojourned with you all *June* & *July* till the 23th?

Winford. He sojourned with me longer; but I only name those months, because they are onely in question.

L. C. J. Where did he go when he went from you?

Winford. He took another lodging in the Town.

L. C. J. And did you see him then?

Winford. I saw him then every day, or every other day.

L. C. J. Are you a Roman Catholick?

Winford. Yes, my Lord, I am so.

L. C. J. Call another.

Gaven. Call *Mary Poole.*

[*Who stood up.*]

L. C. J. Do you know Mr. *Gaven*?

Poole. Yes, my Lord.

L. C. J. How long have you know him?

Poole. This six or seven years.

L. C. J. Pray do you know where he was this time Twelvemonth?

Poole. He was at Mrs. *Winford's* House at *Wolverhampton.*

L. C. J. How do you know?

Poole. I was a Servant there in the House.

Lord Cb. J. And where was he in *April*?

Poole. He was at my Mistresses House.

L. C. J. And where was he in *May*?

Poole. my Lord, I believe he was there.

L. C. J. And why do you believe he was there?

Poole. Because I do not remember his going forth, till the latter end of *July*, and he was there in *June* too.

L. C. J. You answer readily as to *June* and *July*, why did you stick at the month of *May*, more than the other Months? for you know, when I asked you where he was in *April*, then you said he was at home; why do you doubt whether he was there in *May* or no? pray tell us why it is not as certain to you that he was not there in *May* as that he was there in *June*; why do you doubt more of it?

Poole. I do not doubt but that he was there.

Lord C. J. But why did you not answer then as readily to the one as to the other?

Poole. My Lord, any one may mistake.

L. C. J. This you were not prepared for, and it was a question you did not come ready to answer: are you a Roman Catholick?

Poole. Yes, my Lord.

[*Here the people laugh'd.*]

L. C. J. Look you, you must know there is no other use to be made of it, but onely to shew, that Protestants are so averse to Popery in *England*, that they will not endure a Roman Catholick in *England*. But they are good Evidence, and competent Witnesses, I must tell you that, and no man must deny it: for though you deny Heaven to us, yet we will not deny Heaven to you, nor Witnesses; though you say Heriticks will be damn'd, yet we hope they will never, while they do not follow your practises.

[*At which the people gave a great shout.*]

L. C. J. You must pardon the peoples shouting; for you have turned their hearts so, that there is no living for a Papist in *England*, I will maintain it, [*And then the people shouted again.*] You shall have all the Justice that can be, and all the favour the Law will allow.

Gaven. If there be but a place for us in Heaven; I am contented. My Lord, I desire you will be pleased to ask this Mrs. *Kib,* *Winford*, whether she does not remember that I came from my Lord *Aston's* the Monday before.

L. C. J. Mrs. *Winford*, what say you? do you remember any passages about the time he left your house?

Winford. My Lord, I did not know directly and positively what I shou'd come to an-

swer, and therefore I cannot recollect my self.

L. C. J. Do you know that he went to any Gentlemans house some time before he left your house?

Winford. Yes, my Lord, he went often abroad.

L. C. J. To whom?

Winford. To my Lord Aston.

L. C. J. How long before?

Winford. I cannot tell.

L. C. J. How long did he stay at my Lord's? did he ever stay five or six days?

Winford. I cannot tell.

L. C. J. My meaning is this in plain English, to ask you plainly, and you ought in Conscience to speak the truth as much as if you were upon your Oath: for you are in the presence of God, who will judge you as severely for a falsehood in this Case, as in the other. I would ask you whether he could not possibly be absent, and make a step to London, and you be never the wiser?

Winford. My Lord, I am as confident as I can be of any thing in the world, of the contrary.

L. C. J. Might not he be in London the latter end of June or July, and you not know it, when he pretended to go to my Lord Aston's?

Winford. I do not know, but I am very confident he did not.

L. C. J. But was he absent long enough to have done it? can you charge your memory with that?

Winford. It was possible it might be so, but I am confident it was not, because I used to order my maid to get him his Linnen ready upon any Journey, & he had none now.

Dr. Oates. My Lord, he took a Chamber to go into the Exercise; now, my Lord, he taking a Chamber on purpose for this very thing, he might pretend that, and come to London the while, and they not know it, because he was shut up; for none are to come at them.

Winford. My Lord, I know not any such thing of him; but this is a Rule amongst them, that when they are so shut up, if there be a necessary occasion to come to them about any particular business, as sending them Linnen or so, they have admittance to them.

L. C. J. Were you employ'd upon any such extraordinary matter?

Winford. My Lord, I used to go and see him, and carry him his Linnen.

L. C. J. And can you charge your memory with that?

Winford. Yes; my Lord I can.

L. C. J. When, the latter end of July?

Winford. Yes, my Lord, I often went to see him then, when he was gone from my house.

L. C. J. Where was he for all the former part of July till those eight days?

Winford. He was at my own house.

L. C. J. When went he first into this reclusé way?

Winford. He went from my house the 23th of July.

L. C. J. Was he not close when he was with you?

Winford. No, my Lord.

L. C. J. And the last eight dayes you had access to him.

Winford. Yes, I had.

L. C. J. I ask you, Are these people shut up at a certain time, and there is no coming to them upon any occasion?

Winford. My Lord, most of those days I did see him, indeed he was shut up; but upon

any kind of business, as carrying of the Linnen, and sometimes a pair of Gloves, and other things of his own, or sometimes to speak with him about business, were admitted to him.

L. C. J. I see your Confinements are not so great as you would make them to be or he would have us think. I ask you once more, whether you can say that during the months of *June* and *July*, it was not possible for him to make a step to *London*, and you never the wiser?

Winford I am very confident he did not; he was not absent long enough to do it.

Sr Cr. Levins. You said just now, you could not say positively but he might be absent for five or six days.

Winford I do not believe he did: for he had no linnen with him, which he used to have, when he went to *London*.

L. C. J. But supposing he had no linnen, might he not go to *London* and you not know of it?

Winford I Can't tell whether he was absent or no long enough to do it.

Gaven. Pray, my Lord, let me speak; as I live, an innocent man will be lost else. He says expressly I was in Town in *July*; and gives this argument for it, That *Mr. Ashby* was in Town, and he met me with him.

L. C. J. No, no, *Mr. Oates* was not so positive: he says it was either in *June* or *July*; but he rather thinks it was *July*. But *Mistress*, might not he in the beginning of *July* be absent so long as a man might go to *London* and return again, in the first three weeks of *July*, I mean?

Winford My Lord, I cannot charge my memory, because I did not know what I should be asked, and so could not recollect my self. I only say I am confident of it, because he always told me when he went such a Journey, that I might make provision of Linnen to fit him for it.

L. C. J. Your reasons are weak, because he used to tell you that you might get him linnen: men upon extraordinary occasions do extraordinary things; so that you are not to govern your self by what he used to do in his acquainting you, or you in providing his linnen. This was no ordinary Errand, and therefore I don't ask you whether he had linnen from you or no; but you are only to charge your self with remembering whether he could not be absent long enough out of your sight to have been such a Journey.

Gaven. Pray, my Lord, give me fair play. He does charge it expressly, and is precise to a day: He saith I was here in *July* after that *Ashby* was come to Town, and before that he went out of Town: And he says that *Ashby* came to Town in the middle of *July*, and went out of Town about the latter end of *July* or beginning of *August*. Now, my Lord, I say this, he saying that *Ashby*, came to Town the middle of *July*, and staid there a fortnight, and then went to the Bath, & that I came to Town while that he was there; if I prove that I was in *Staffordshire* from the 15th. or 16th of *July* to the end of the month, then I shall clear my self evidently; for he does in effect charge me to be here some time in that fortnights time, and I prove that all the latter part of *July* I was in the country.

L. C. J. He does not charge it to a day, but he says it was about a fortnight.

D. Oates. *Mr. Ashby* came to Town in the beginning or middle of *July*; I rather think it was the middle, but I dare not upon my Oath be positive as to the time; and in that

that time Mr. *Ashby* staid in Town, Mr. *Gaven* came to *London*: for I remember he said he would go and see Father *Ashby*, who was then at *Wild-boufe*.

L. C. J. Prove where you were now all *July*. Call your Witnesses.

Gaven, I prove that I was at *Wolverhampton* from the 23th to the end of the month.

L. C. J. Call your witnesses to prove where you were the beginning, that can speak expressly to it.

Gaven: My Lord, I have them not here.

L. C. J. Why then would you make us lose all this time?

Gaven, My Lord, I will tell you; hear the words of an ingenuous man being as I was innocent, not knowing what they intended to charge me with, I in my mind run over all that I could imagine I had at any time done that they could lay hold on. If I had been guilty of any thing, my own conscience would have told me of it; and I should have provided to have given some Answer to it: but being innocent; I was to ransack my memory to sum up all the passages of my life, where I had been, what I had said, what I had done, that would give them any occasion of accusing me. And because I did imagine they might think I was here the 24th of *April*, I brought witnesses for that; and because I did imagine that they might speak of some Consults in *April*, I sent up for such witnesses at my own charge, as could testify where I was then.

L. C. J. But you have not one Protestant that testifies for you.

Gaven, And now, my Lord I humbly cast my self upon the Honour and Justice of this Honourable and Just Court; to which I submit my self with all my heart and soul, having used all the remedies I can. I have cleared my self as to the main day, the 24th of *April*, whereon all the pretended Plot lies: And Ple bring Witnesses that shall swear I was not in *London* in *August*; and if my eternal Salvation lay upon it, I could averr I was not in *London*: and I wish I may be made an example of justice before all the world (in the sight of God I speak it) if I be not the most innocent person in the world. And, my Lord, seeing there is only his Oath for it, and my denial, I have onely one demand: I don't know whether it be not an extravagant one or no; if it be, I don't desire to have it granted.

L. C. J. What is that Demand?

Gaven, You know that in the beginning of the Church (this learned and just Court must needs know that) that for one thousand years together, it was a custom, and grew to a constant law, for the Tryal of persons accused of any capital Offence, where there was onely the accusers Oath and the Accused's denial, for the prisoner to put himself upon the Tryal of *Ordeal*, to evidence his own Innocencie.

L. C. J. *North*, We have no such law now.

L. C. J. You are very fanciful, Mr. *Gaven* you believe that your cunning in asking such a thing, will take much with the auditory; but this is onely an artificial Varnish: You may do this with hopes of having it take with those that are Roman Catholicks, who are so superstitious as to believe Innocency upon such desires; but we have a plain way of understanding here in *England*, and that helpt very much by the Protestant Religion: so that there is scarce any Artifice big enough to impose upon us. You ask a thing that sounds much of a pretence to innocencie, and that it would be a mighty sufficing if you should miscarry, because you ask that you know you can't have. Our Eyes and our understandings are left us, though you do not leave their Understandings to your Proselytes; but you are mistaker, if you think to impose that upon us, that you

do upon them: and you do so impose upon them. But I'll tell you, there is scarce any man with us that can be a Papist: for you cannot deceive and gull us, as you have done all that you have perverted to your way.

Gaven, Is it any harm, my Lord, to ask whether I might not be so tried?

L. C. J. *Norib*, look you here, *Mr. Gaven*, the time is far spent; if you have any thing to say, we will hear you; if you have any witnesses, call them, and we will examine them: but if not, the other Prisoners must be admitted to make their defence as well as you.

Gaven. All these six can prove that I was at *Wolverhampton* the last week in *July*.

Then another Witness stood up for him.

Gaven, Where was I in *July*?

Witness, I cannot speak to all *July*, but, my Lord I can declare, that *Mr. Gaven* was in *Staffordshire* the last week of *July* every day, I am confident.

L. C. J. Where was the first three weeks in *July*?

Witness, I cannot speak as to that; but in the last week in *July* he came to an apartment of an house that I lived in.

L. C. J. Cook you, *Mr. Gaven*, you see what this Evidence is; she says that you were in *Staffordshire* the last week in *July*, for you had an apartment in the house she lived in: Call another.

Who stood up.

L. C. J. Where was *Mr. Gaven* in *July* last?

2 Witness, My Lord, I saw him my self at the latter end of *July* for very many days; for he was in a Room of the house that I lived in, I am sure, most of the last week.

L. C. J. Where was he the last fortnight?

2 Witness, I am confident I saw him all the last fortnight, but I cannot be positive

L. C. J. Call another.

[Who stood up.]

L. C. J. Where was *Mr. Gaven* in *July*?

3. Witness. My Lord, I lived in the same Town with him, and I do not remember that he was out all *July*, but the last week he was in our house.

Lord Chief Just. Well, call another. *(Who stood up.)*

Lord Chief Just. Where was *Mr. Gaven* in *July* last?

4 Witness, He was in *July* last, the last week, in a part of our house.

Lord Chief Just. So then he came home from *London* the 23th or 24th of *July*. Well *Mr. Gaven* have you any more witnesses to any other purpose? for here are enough to this.

Gaven, No, my Lord.

Lord Chief Just. *Mr. Whitebread*, have you any Witnesses to call?

Wh, My Lord, I have only this, and I desire to be heard in this point, to prove that *Mr. Ous* was mistaken in his Evidence that he gave at the last Trial against *Mr. Ireland*.

L. C. J. Look you, I must break in upon you; you have been told so often, all of you have been told it, and yet you are upon the former Trials again. You are now upon your trial for your life, if you could have disproved any thing that he said at a former trial, you should have taken a legal way and convicted him of perjury; but now to charge him with a printed Paper is not fair. You must speak to what he says now.

Whitebread. He says the same now. But all that I say is this, If he be not honest, he can be witness in no case. I suppose if any one can prove him not *Probus Testis*, his Testimony is not to be received in any case.

Lord Chief Just. But how will you prove that? Come on, I'll teach you a little

of *Contradict* a Witness you ought to do it in a matter which

is the present debate here; for if you would convict him of any thing that he said in *Ireland's Trial*, we must try *Ireland's Cause* over again. But if you will say any thing against what he says now, do.

Whitebread, That which I would alledge is this, If he be convicted of perjury in one case, he is not to be believed in another.

Lord Chief Just. You say right, if he be convicted.

Whitebread, He is not only then an incompetent Witness, for he cannot be said to be *probus testis*, but he is *improbus*. Now this is that I can prove.

Mr. Just. Pemberton, Nay, you must shew it by a Record.

Lord Chief Just. You cannot have so little understanding, you that have been, and were to be so great a man among them, had been Provincial, and was to have been somewhat else. I have told you already, that to prove him to be a man that hath no faith in him he must be convicted. You must have indicted him, and convicted him, of the thing wherein he did commit perjury, and then he had been prepared to justify himself. But shall you come now, and at this your Trial, and prove what he said at *Staley's Trial*, and *Colemans Trial*, and *Ireland's Trial*? And must we examine what matters have received a verdict and a judgment there? for consider what will be the consequence of it; if it should be false, you there arraign a verdict. You should have convicted him of the falsehood first.

Whitebread, I desire the Jury to take notice, that he does not stick to the Testimony that he gave then, for if he does it was false.

Lord Chief Just. They must not take notice of any thing that was done at a former Trial, unless it be spoken of now.

Lord Chief Just. North, Do not call any Witnesses to prove what he said then, but to disprove what he hath said now.

Lord Chief Just. 'Tis a pretty hard matter to make a Priest understand one, for what I see. If the Witness shall not gain credit with the Jury that he came over with *Sir Thomas Preston*, *Sir John Warner*; if they are satisfied by those many Witnesses, ten or twelve at least, that it is false, they ought not to believe him; but as to that Testimony they ought to believe your Witnesses, but he is not presently guilty of perjury: for if they should not give credit to *Mr. Oster*, you must indict him, and another Jury must pass upon him before he is convicted: for it is one thing to be forsworn and perjured, and another thing to be proved so; and he is not proved to be so, but by a Record for that purpose.

Harcourt, If so be our Witnesses cannot be looked upon as good Witnesses, then there can be no Commerce abroad in any other Country.

Lord Chief Just. They are no doubt good Witnesses till they be proved otherwise, and they are left to the Jury to believe as they think fit.

Harcourt, Now here are divers things that are brought against my self by *Mr. Bedlow*, *Mr. France*, *Mr. Oster*, and *Mr. Dugdale*; if the Witnesses that I bring, because they are *Roman Catholicks*, are not good Witnesses, then I am in an hard case.

Lord Chief Just. North, Look then, you mistake the thing; those that are not Witnesses, we do not hear at all; but our hearing them at all, proves that we look upon them as good Witnesses. But when a man is a Witness, he is either of more credit, or of less credit, according to Circumstances; and 'tis a proper question to ask them, Whether they are *Roman Catholicks*: but they are Witnesses without all question.

Here I say, my Lord, these persons are known to be every one of them very bad and flagitious persons, and that every one of them have undertaken this course merely to get a livelihood: they are men of desperate fortunes, they get a living by swearing fast, they find that the best trade,

Lord Chief Just. North, If you have any other Witnesses, we will hear them. If you have no other Witnesses, then we must hear what the Kings Council reply, and then it will be your turn to say what you can in your defence.

Gaven, I have Witnesses here. It is not indeed a positive Evidence, but a negative Evidence; and I have a Brother and a Sister in Town, and upon my salvation I never came to Town but I came to their house.

Lord Chief Just. That will signifie nothing. Mr. Harcourt, have you any more Witnesses? if you have them, pray call them.

Harcourt, 'Tis in vain to call them, if they be not to be believed because they are Roman Catholicks.

Sir Cr. Levins, 'Tis a mistake; we do not refuse any Witnesses because they are Roman Catholicks.

Lord Chief Just. No, we have not refused any one Point yet.

Lord Chief J. North, If you have any more, pray call them, and don't spend the time.

Lord Chief Justice, Call a Priest or two if you will, we will hear them.

Harcourt, Mr. Oates did accuse me of paying fourscore pounds at my chamber, and he did say afterwards it was at Wildhouse, I have persons to justify what was done at my own chamber; and he says, Mr. Ireland was by; now here are Witnesses to prove that Mr. Ireland was in Staffordshire all the month of August, therefore he could not be present.

Lord Chief Just. Does he say any such thing now?

Mr. Just. Pemberton, That was urged before; pray do not insist upon that, it hath received a Trial.

Lord Chief Just. I'll tell you what he says, and I'll ask him the question: Dr. Oates, it is supposed by your testimony that Mr. Ireland and Mr. Harcourt were together when this fourscore pounds was paid for the Villain that went to Windsor to murder the King?

Dr. Oates, I never said such a word.

Harcourt, Here it is in the Trial.

Lord Chief Just. I stand not by the Printed Book, it is no Record in Law. In short, Were Mr. Ireland and Mr. Harcourt together at that time?

Dr. Oates, No they were not.

Gaven, He did then say, that he did receive of Mr. Ireland, the 2d of September, 20 s. that he borrowed of him: now the 2d of September he was at Boscobel.

Dr. Oates, My Lord, I was not positive as to the day; but as near as I remember (those were the words I said) it was the second of September; but whether it was the first, second, seventh, eighth, or ninth, I would not be positive in it.

Then the Prisoners called Pendrel and his Wife, and Gifford and his Wife; and Gifford stood up.

Gifford, My Lord, I was here the last Sessions, where I did testify the seeing of Mr. Ireland in Staffordshire on the 24th of August, Bartholomew-day, and the next day after; at which time Mr. Oates said that he saw him here in Town. But Mr. Oates could not be particular in every thing; but at last he came to a circumstance, and averred that the

the first or second of September he did receive Twenty shillings of Mr. Ireland in Harcourt's Chamber; he said it was about the Fast day.

Dr. Oates, That was as near as I remembred.

Gifford, Here is in Court at least six people that know it; I saw him several other of those days there; but these six people conversed with him every day.

Mr. Just. Pemberton, How do you know all that?

Lord Chief Just. North, Come, come, you must not speak as to what he said in Irelands Trial.

Lord Chief Just. What time was it that Mr. Harcourt and Mr. Ireland conferred together about this same business?

Dr. Oates, My Lord, I do not charge Ireland, but I charge Harcourt with being at Wildbourse, and that there Coleman met him, and that there was the greatest part of the money, which was carried back to Harcourt's Chamber, and given to the person that was to carry it down to Windsor; but Mr. Coleman was gone away before, and had left a Guinea behind him which was given to the messenger for expedition.

Lord Chief Just. I am mistaken if you have not testified that Ireland was in Town in August and September with Harcourt.

Dr. Oates, Ireland took his leave of London betwixt the 8th and the 12th of August, as to go to St. Omers.

Lord Chief Just. Here is the matter, they must have right, though there be never so much time lost, and patience spent. Say they, We must prove and contradict men by such matters as we can; people may swear downright things, and 'tis impossible to contradict them; but we will call Witnesses to prove those particulars that can be proved: say where Mr. Ireland was in August?

Dr. Oates, He took his leave of us in Town in August, and that was between the eighth and twelfth at Harcourt's Chamber.

Lord Chief Just. What do you infer from Irelands being there then?

Dr. Oates, I'll tell you what I design in it: your Lordship may perceive that I did methodize my Evidence according to the time; for I said this was our business in April, this in July; and now we come to the business of August, said I, we took our leaves of Mr. Ireland between the eighth and twelfth. I said in July Mr. Fenwick was out of Town, but then if your Lordship remembers I said he was in Town, and took his leave of Mr. Ireland between the eighth and the twelfth of August.

Lord Chief Just. Was Mr. Ireland in Fenwick's company at that time in August?

Dr. Oates, Yes, my Lord, he was when he took his leave.

Lord Chief Just. Did they talk then of this business?

Dr. Oates, They took their leaves of one another, but as to what particular things of the Plot they spoke about, I don't remember.

Lord Chief Just. Look you now, mind what he says, Ireland and Fenwick were together in August between the eighth and the twelfth, but being asked, Whether they were met on purpose to talk of the Plot? he says he does not remember the particulars.

Here the Lady Southcott, her Son, and her Daughter were called.

Lord Chief Just. Did you say that Fenwick there at the Bar had converse with Ireland in August for the carrying on of the Plot?

Dr. Oates, Yes, my Lord.

L. C. J. My rule is this in doubtful cases, when men are upon their lives, I had rather hear what is impertinent, than not let them make a full defence.

Lord Chief Just. North, I had rather hear things at a venture, than forbid things at a venture.

Lady Southcott stood up.

Lord Chief Just. How long were you in Mr. Irelands Company?

Lady Southcott, From the fifth of August to the sixteenth.

Lord Chief Just. What every day? Lady Southcott, Yes, every day.

Dr. Oates, My Lord, here is Sarah Pain who before hath testified what she hath known in this matter. If your Lordship please I desire she may be call'd in readiness to speak to it.

Lord Chief Just. Are you sure it was the fifth?

Lady Southcott, Yes, as sure as I can be of any thing.

Mr. Recorder, Dr. Oates, you had best keep your Evidence intire till the last.

Then Sir John Southcott was called, and appeared.

Lord Ch. Just. Did you know Mr. Ireland?

Sir John Southcott, Yes, I did know him by face.

Lord Ch. Just. Where did you see him?

Sir John Southcott I saw him the fifth of August at St. Albans.

Lord Ch. Just. And did he travel along with you?

Sir John Southcott, Yes, he did travel along with us the sixth, seventh, eighth and ninth.

Lord Ch. Just. How many days did he travel along with you?

Sir John Southcott, He travel'd along with us four days together I am sure.

L. C. J. What from the 5th to the 9th? Sir John Southcott, Yes, Sir.

L. C. J. Is this all that you can say?

Sir John Southcott, Yes, my Lord.

L. C. J. But we would know where he was afterwards; did you see him after the 9th?

Sir John Southcott, My Lord, I saw him at St. Albans, and we went from thence to Northampton, and from thence to Coventry, and from thence to my Lord Aston's, that is four days; and I saw him Thursday, I saw him Friday, Saturday, and Munday following. Tuesday I had occasion to go further into the Country, and he went along with us; so I saw him Tuesday, Wednesday, Thursday and Friday, afterwards.

L. C. J. Why then you saw him at least twelve days? Sir John Southcott, Yes,

L. C. J. Have you any more?

Then Mr. Edward Southcott stood up.

L. C. J. Were you here when Ireland was tryed? Sir John Southcott, No,

L. C. J. Did you see Mr. Ireland in August last?

Mr. Southcott, The third of August he came down to my Lord Aston's at Stanmore, they said so; but I cannot swear he came that night, but I saw him very early the next morning; the 5th we went to St. Alban, & we kept on till we came to Tixal, and I was in his company from the 4th to the 16th.

L. C. J. Why, you hear what he says, he was in company with him every day from the 4th to the 16th.

Gavin, Call Mrs. Harewell and her Daughter, Mrs. Gifford, and Mrs. Pendrell.

Then Mrs. Harewell stood up.

L. C. J. Did you see Mr. Ireland in August last?

Harewell. I saw Ireland in August last, the 17th day: He came then to my House at Wolverhampton, and there he continued every day, and lay in my house every night till the 26th, day.

Then young Mrs. Harewell stood up.

Harewell. Mr. Ireland came to our house in Staffordshire the 17th of August, and stay'd there till the 26th; I saw him every day, unless it was Friday, the day before Bartholomew-day, when he went to Litchfield, and returned again.

Gaven. My Lord, there is a prisoner now in Newgate that can testify the same.

L. C. J. North. Would you ask your fellow if you be a Thief? he is in for the same offence.

Gaven. My Lord, I desire to know, if a man be not convicted of the same offence, whether he be not a good Witness?

L. C. J. North. If he stand charged with the same Plot, his Evidence is of little weight.

Then Elizabeth Keiling stood up.

L. C. J. Did you see Mr. Ireland in August?

Keiling. Yes, my Lord, I did.

L. C. J. Where did you see him?

Keiling. I saw him at Wolverhampton, there he was from Saturday the 17th, to Monday, and then I went to see my Mother, and came back again on Thursday, and found him there, and there he was till the 26th.

Gaven. Call Mr. Pendrell and his Wife.

Then Pendrell stood up.

L. C. J. When did you see Mr. Ireland?

Pendrell. I saw him the second and third of September.

L. C. J. Where did you see him?

Pendrell. At Boscobel.

L. C. J. And what, did you see him in August?

Pendrell. No, my Lord.

L. C. J. How do you know you saw him then?

Pendrell. My Wife being paid for his diet, set down the day.

L. C. J. What, he came to sojourn with you, did he?

Pendrell. They were with me for their Meals, and so my Wife set it down.

L. C. J. Why, do you set down the day of the month when any one comes to you?

Pendrell. Yes, my Lord, when we are paid for their Diet, we do.

L. C. J. What, do you keep a publick House? Pendrell. I keep the Royal Oak.

L. C. J. Methinks you should have a great deal of company if you live there; and 'tis hard you should charge your self to remember a particular person you did not know before.

Pendrell. My Lord, he told me his name was Ireland, and several others did so too.

L. C. J. You had as good have let such trivial Evidences as this alone, But go on.

Then Mrs. Pendrell stood up.

L. C. J. Do you know Mr. Ireland?

Mrs. Pendrell. I did know by report it was he.

L. C. J. Where did you see him in August or September?

Pendrell. At Boscobel, my Lord.

L. C. J. Did you never see him before that time?

Mrs. Pendrell. No my Lord

L. C. J. Do you know it was the same man that suffered?

Mrs. Pendrell, I will take my oath of it.

L. C. J. How! when you never saw him before that time?

Mrs. Pendrell. I was in Town when he dyed.

Then stood up Mrs. Gifford.

L. C. J. When did you see Mr. Ireland?

Gifford. My Lord Mr. Ireland came to *Wolverhampton* the 17th of *August*, and he stayed there till the twenty sixth, it was of a *Munday*, I remember it by several circumstances.

L. C. J. Did you know Mr. Ireland? Gifford, I never saw him before.

L. C. J. Do you know it was the same that dyed?

Gifford. My Lord, here was my brother in Town, who saw him executed, and he did assure me he was the same. And I saw him again the second of *September*, and the 7th of *September* again, and the 10th, and the 11th. My Lord, he was the same man, the next day, because my brother told me so.

Mr. Gifford. I saw him in the Country, and I saw him executed.

Then another Mrs Gifford stood up.

Mrs. Gifford. I saw him at *Pancrafts Fair* in *Staffordshire*.

L. C. J. Was it the same man that was Executed?

Mrs. Gifford, My Lord I cannot say that, I did not see him suffer but my Sister and I were at a Window, and she shew'd him to me, and said that was Mr. Ireland, and told me how long he had been in *England*.

L. C. J. How do you know that was the man that was executed? did you see him tried here?

Mr. Gifford, Yes, my Lord I did.

L. C. J. And that was the same man. Mrs. Gifford Yes It was, my Lord.

L. C. J. When was it your Sister shew'd you him?

Mrs. Gifford. I saw him upon the seventh of *September*.

Then stood up one Mr. Bedle.

L. C. J. When did you see Mr. Ireland?

Bedle, I saw him at a place called *Millage* in *Staffordshire* the second of *September*.

L. C. J. Are you a Roman Catholick?

Bedle. If I must make a confession of my faith, I will. But I saw him there, and they said it was Mr. Ireland the Jesuit.

L. C. J. Had you no acquaintance with him before? Bedle. No.

L. C. J. How do you know it is the same man that suffered?

Bedle. I do not know that, but I suppose it was the same.

Turner. I am accused for being at *Tixall* at a consult in *September*, I desire to know who saw me there, for I have not been there these four years.

L. C. J. Mr. Dugdale saw you there.

Turner. What Witnesses besides?

L. C. J. None but he for that.

Mr. Recorder Hath Mr. Fenwick any more Witnesses to call?

Fenwick, My Lord, I have not any.

Then was Captain Hill called.

Fenwick, My Lord, he can prove something against Mr. Bedloe: He says, he lived in good repute; but the Captain will tell you he was in the *Marshalsey*, and lived a poor man.

mean life, and all the time fed upon the Basker.

L: C: J: *North*. He was guilty of the same Treasons that you are guilty of, there is his fault.

L: C: J: No doubt he was a naughty man, he was with you in this Plot:

Fenwick, I can prove by Sir *James Butlers* Clerk that he cheated a Cutler of a Silver hilted Sword.

Then Sir *James Butlers* Clerk was called, but he having more than one; and the person means, not being there, there could nothing be examined about that.

L: C: J: *North*, He hath had the Kings Pardon for all that:

Fenwick, He was forced to run the Country for a many Cheats, and was forced to borrow 4l. 5 s., to redeem his Boots, My Lord does his Pardon make him a good Witness? Then we will prove something since his Pardon.

L: C: J. No doubt he was bad enough while he was with you.

Whitebread, My Lord, I think I have a plain Demonstration against Mr. *Bedloe* since his Pardon; he did at my last Trial say that he had nothing to say against me, and now he comes and gives fresh Evidence against me.

L: C: J. *North*, That is an Objection that will not take away his Evidence, but only goes to the lessening of the credit of it. He says he was in Treaty with Mr. *Reading* about you, and the Lords in the Tower; and to beget a confidence in him that the Lords in the Tower should receive favour from him, and come off by his means, he was to be easy to you too, which made him lessen his Evidence at that time. This is that he says, the weight of it must be left to the Jury. And he said at that time he had more to say at time and place convenient.

Whitebread, There is no such thing in the Trial. He hath alledged great matters against me, therefore it is evident he did falsifie his Oath; for if he were to swear the truth, the whole truth and nothing but the truth, and he did not say the whole truth, he is perjured; if he did, he can say nothing against me now.

L: C: J. *North*, Mr. *Whitebread*, you have your objection, and it must be observed to the Jury. You repeating of things signifie nothing.

Then Captain *Hill* stood up.

Fenwick, Pray Sir, what do you know of Mr. *Bedloe*?

Mr. *Just. Pemberton*. But don't ask any thing before the Pardon.

Cap. *Hill*, I knew him in the *Marshalsey*.

Fenwick, In what condition was he there, Sir.

Cap. *Hill*, He was a poor man, as I be, and lived upon the Basker.

Harcourt, How long ago is it since you knew him there?

Cap. *Hill*, In May was twelve Month.

L: C: J. That was long before his pardon. But he might be an honest man for all that, though he were as poor as you. Are you an honest man. Cap. *Hill*, Yes, I think so.

L: C: J. And so might he be, well, have you any more Prisoners, No.

Sir Cr. *Levins*. Gentlemen of the Jury, you have heard the Prisoners, and they have had a great deal of time to make their defence; but the greatest part of their defence hath been to invalidate the Testimony of Mr. *Oates*; & what is the Evidence they have brought against him? they tell you first, That he did not come over, in that company that he says he came over with. And whereas he hath sworn he was here the 24th of April, they have taken a great deal of pains by fifteen or sixteen Witnesses to prove that he was all the time at St. *Omer*; and that Sir *John Widdowes* and Sir *Thomas Bedloe*

who he tells you come over in company with him, never stir'd from the places of their Residence, that this *Liege* and *Watson*, all that time: but this, Gentlemen, you must observe, that if *Mr. Oates* were out of the Case, all these persons except *Mr. Turner* are proved guilty of the Treason they are charged with; and yet I shall set up his Testimony, and make him clear, notwithstanding whatsoever hath been alledged against him Gentlemen, to take them in order, *mr. Whitebread* hath *mr. Dugdale*, *mr. Bedloe* and *mr. France*, to prove him Guilty, let what will come of *mr. Oates*, all of them speak to him.

Lord Ch. Just. France, do you speak any thing against *Mr. Whitebread* ?
Mr. France, No.

Mr. Record. It was *Fenwick* and *Harcourt*.

Sir Cr. Lewis, But there is *Bedlow* and *Dugdale* against *Mr. Whitebread*, and therefore, Gentlemen, there are two have sworn against him, besides *Oates*; and there is two against *Mr. Fenwick* at least, nay, there are three, for besides *Oates* there is *Bedlow* and *France*; as to *Mr. Harcourt*, there is *Bedlow*, *Dugdale* and *France*, besides *Mr. Oates*; as to *Mr. Gaven*, there is *Oates* and *Dugdale*; indeed there is none but *Oates* and *Dugdale* against *Turner*; so that as to the three first however there are two Witnesses besides *Mr. Oates*, that is, against *Mr. Whitebread*, *Mr. Fenwick*, and *Mr. Harcourt*. Now as for *Mr. Oates's* Testimony, and what they have to say to him; in the first place, they have brought a young Gentleman, *Mr. Hilsley*, and he says he did not come over with him, and there 'tis one against one, but *Dr. Oates* hath sworn it, and hath given you such convincing Circumstances how he lost his money, &c. so that I leave it to you which of the two is in the right, and ought to be believed. But then, my Lord, as to the rest of the Witnesses, here are a great many brought over to prove that *Mr. Oates* was all the while at *Saint Omers*; but I shall bring you a considerable number of Witnesses to prove that *Dr. Oates* was then in *London*, and that all these persons are mistaken. They do all pitch upon the first of *May*, to fix it upon a time wherein he says he was here in *Town*: But Gentlemen, I hope you did observe, that as to other things and time that were not so necessary as to this matter, there they were pleased to mistake, and to differ one from another, to contradict one another, for some of them said he went away and left *Saint Omers* the tenth day of *June*, others the 23th, others, which was the same *Flemish* Gardiner, that he staid till *July*. Truly half that variance in the time which is necessary would serve our turn, we are but for eight days time, that is, he was not above eight or ten days here, truly these Gentlemen will be sure to speak punctually to all those eight days that hurt the Prisoners, but they will vary thirty days at another time that hurts them not. Why may they not be mistaken as well with that portion of time, as they were in the other wherein they so much differed one from another?

But I shall give you most infallible proof by and by, that *Mr. Oates* was in *England* at that time that he said he was in *England*. My Lord; as to that of *Sir John Warner*, truly we have sent for a Witness, but we did not know of the Objection before; they have now brought you the Gardiner, and he did say positively at first that *Sir John Warner* was there all that while, but being asked again how he knew it, he said it was the talk of the Countrey, and so some of the Witnesses did speak to *Sir Thomas Preston*. But then I did desire to know of these Witnesses, whether these persons were never absent from these places or not, they told me they were absent for some time in the Vacancy.

Gaven, That was in *August*.

Sir Cr. *Levins*, You are very good at expounding I know, but what those Vacancies were I am not certain; but being apt to mistake a little, they might mistake the time too, and they might extend their journey beyond their Vacancy. Mr. *Gaven* he hath made a mighty Defence I must confess; endeavouring to prove that he was out of Town all *June* and *July*, and in *April* and *May* before, and truly he hath brought some Witnesses that have spoken very far for him as to those months, but I will desire you to observe, as I know you did, that the three last Witnesses that knew him very well did affirm positively that he was there the last week in *July*, but being asked to the week before that, and the week before that, they could not be positive. And under favour by that Evidence you will believe rather that he was not there, for if so be they could so positively remember for the last week, why should they not be as positive for the two weeks before? why these two weeks were enough to serve our turn, for it was towards the latter end of *July* that which Mr. *Oates* hath sworn upon Mr. *Gaven*, that he was in Town, and talked of the same matters which he had written the letter about. And therefore it is much to be presumed, that because the Witnesses will take upon them as to the last week, they are sure he was at *Wolverhampton*, but as to the two other weeks they could not be sure, that they speak with some conscience; and therefore it may be true that he was here. And the Woman said she could not say, but possibly he might make such a Journey and she never the wiser. So that under favour, Gentlemen, all that which Mr. *Gaven* hath so industriously endeavoured to lay upon Mr. *Oates*, does shrink into a very slender Evidence, and that it might well be he was at *London* at the time that *Oates* says, the three last Witnesses speaking positively only to the last week in *July*.

Then truly, my Lord, they are fixed upon another great matter to blemish Mr. *Oates* as to Mr. *Ireland*, a person that is dead and out of the way. Mr. *Ireland* hath been hanged upon that Evidence, so far it was believed, but now after all this will these Gentlemen come to question the Evidence that was given against Mr. *Ireland*. They have likewise, my Lord, brought my Lady *Southcott*, and some other persons, who give you an Evidence concerning Mr. *Ireland*, that he should not be here at this time, but Gentlemen under favour Mr. *Oates* hath sworn before, and he hath now sworn it again, that Mr. *Ireland* was at that time in *London*, and Gentlemen I will confirm him in that by another Witness that did see him here in Town at that time. And when you have two Witnesses for the King upon their Oaths come and relieve it, I hope you will believe them, rather than other persons that testify only by hear-say. It was the matter then in issue, and had saved his Life if it had been true, but though it be now settled, and none could think it would be again started, they would make that an Objection, but by chance we have a Witness still to give you satisfaction, that Mr. *Ireland* was in *London* at that time that Mr. *Oates* did swear him to be. We will begin with that Witness about *Ireland*. And then we will call our Witnesses to prove that Mr. *Oates* was in *England*, and did come over when he said he did. Call *Sarah Pain*.

(Who was sworn,)

Sir Cr. *Levins*, What time did you see Mr. *Ireland* in *London*? Did you see him in *August* last?

S. *Paine*, I saw him about seven or eight days before I came to my Lord Chamberlain, and that was about a week before the King went to *Windsor*.

Lord Chief Just. Where did you see him? S. Paine, At his own door in *Russelstreet*.

Lord Chief Just. Did you speak to him?

S. Paine, No, I knew him very well, and saw him, as I came by.

Sir Cr. Levins, Had not you carried many Letters to him?

S. Paine, Yes, several Letters.

Sir Cr. Levins, But where did you live before?

S. Paine, I lived at Mr. Grove's.

Sir Cr. Levins, Did not Mr. Ireland use to come there too?

Sarah Paine, Yes, he did often,

Lord Chief Just. Was any one talking with Ireland then? S. Paine, No.

Sir Cr. Levins, How long did you look upon him? Did you see him go in? did you see his Face or his Back?

S. Paine, I saw his face, and made him a Curtesie.

Lord Chief Just. This she said to Ireland's Face.

Mr. Just. Dolben, Your Evidence is that Mr. Ireland went out of Town the 5th of August, and she says she saw him about that time, which must be the 13th or 14th of August.

Ga: en, How does she prove it? she does not say she spoke with him,

Mr. Just. Dolben, She swears it.

Sir Cr. Levins, Now we must prove what time the King went to *Windsor*.

Lord Ch. Just. Sir Tho. Doleman, what time in August did the King go to *Windsor* last Summer?

Sir Tho. Doleman, I believe (I cannot charge my memory so well) it was the 13th, it was about the 12th or 13th.

Lord Ch. Just. Was my Lord Chamberlain there then?

Sarah Paine, My Lord Chamberlain went after the King.

Lord Chief Just. And when do you say you saw Ireland?

Sarah Paine, I saw him seven or eight days before I went to my Lord Chamberlain's which was before my Lord went to *Windsor*, and that was a week after the King went thither.

Sir Cr. Levins, Now I'll tell you what she says; she says she saw Ireland a week before she went to my Lord Chamberlains, and she saw him go into Groves House, where he did usually go for Letters; she says she saw his face, and made him a Curtesie; and that this was a week before she went to my Lord Chamberlains, and that was a week after the King went to *Windsor*. Now the time that Mr. Oates pitches upon is between the 8th and 12th of August, which by computation is the time she speaks of.

Gavin, And our Witnesses go from the third of August to the fourteenth of September.

Sir Cr. Levins, Call Sir Richard Barker, William Walker, Sara Wes, &c.

William Walker was first sworn, and bid to stand up.

Sir Cr. Levins, Pray, Sir, do you know that Mr. Oates was in England the beginning of last Summer? Pray tell your whole knowledge.

Mr. Walker, Yes, my Lord, I will. I have known Mr. Titus Oates these seven years, and had not seen him above five years; but about two years ago I did meet him in Newgate-market, and then again in the latter end of the month of March 1678, or the beginning of April, I did see Mr. Oates in a disguise, in a gray Searge Coat, and I think

think a gray Hat, but I did not understand it, nor did I know him to be the man, and I was very much troubled that I could not recollect my self who he was, and I went to bed, & could not recollect who he was; but before I rose in the morning I did draw him within the Scheme of my knowledge that it was *Titus Oates*, & to confirm my judgment in that, I did go to a Gentlewoman, whose name I did not know, but I went thither because it was the same place that I had seen him at a year before, to enquire what became of *Mr. Oates*, and how he did: And when I came to her (in the morning early, it was the next day after I had seen him in the Disguise) I enquired of the Gentlewoman how *Mr. Oates* did, and she clapped her hand upon her Counter, being a Tradeswoman, *Oh*, said she, *he is an undone man. Why so*, said I: said she, *he is turned to the Church of Rome, and he absconds and hides himself, I knew not where he is; then in plain terms*, said I, *I saw him later than you, for I saw him Yesterday, between nine and ten of the clock, it was at the upper end of St. Martins-lane, near Leicester House.*

Sir Cr. Levins, What time was this?

Mr. Walker, This was in April or March last was a Twelvemonth.

Lord Chief Just. Did you never see him more than then?

Mr. Walker, No, I knew his Face so well, as I looked back upon him, and he looked back upon me, but it was with some kind of terrour, and he did seem to abscond and hide himself.

Lord Chief Just. When was this?

Mr. Walker. It was sometime from the latter end of March to the middle of April.

Lord Chief Just. Why did you skip the beginning of April?

Mr. Walker, I am not able to remember exactly the time; for why, I did never think to be called as a Witness about it.

Lord Chief Just. Did you speak to him? *Mr. Walker*, No, my Lord, I did not.

Lord Chief Just. How long before had you spoke to him?

Mr. Walker, A year before, but in his Canonical Habit, and not before of five years.

Lord Chief Just. Norib, You will not sure catch him upon a day.

Lord Chief Just. But I'll tell you what it does, it contradicts all that your Boys, all your Witnesses say: Though it does not go home exactly to the 24th of April, yet, if it be true, and we have no reason to believe it otherwise, it disproves all their Evidence; for they charge him to have been at St. Omers all March, April and May.

Sir Cr. Levins, Swear *Sarah Ives*. (Which was done.)

Dr. Oates, My Lord, we bring *Sarah Ives* to prove that this same Gentleman went to her to enquire of her about me.

Lord Chief Just. Pray Mrs. what did that Minister say to you, and when, concerning *Mr. Oates*?

Mrs. Ives, *Mr. Walker* came to my Shop, and asked me when I saw *Mr. Oates*; said I, *I have not seen him since he went beyond sea, Then*, said he, *I have seen him later than you, for I was going to Leicester Fields, and at the end of St. Martins-lane I saw him in a Disguise, and he looked wistfully back upon me, and I upon him, and*, said he, *I am certain it was the man.*

Lord Chief Just. What time was this?

Mrs. Ives, It was April was a Twelve-month.

Lord Chief Just. What time in April do you think?

Mrs. Ives, I cannot say the day.

L. C. J. But what time of the month was it?

Mrs. Ives, I don't justly know, I think it was the middle of April, or thereabouts.
Lord Ch. Just. Call another witness.

Sir Chr. Levins, Call Mrs. Mayo. (who was sworn)

Sir Chr. Levins, Well what say you, when did you see Dr. Oates in England?

Mayo, I never saw his Face till a week before *Whitsontide*, or a little after; there was a young man, a Servant of Sir Richard Barker's, that knew him a long time before; he came to me and said, *Yonder is Mr. Oates hath changed his coat from a black to a white; what is he!* said I, *he was a Minister, but he is either turned Quaker or Catholick; but, said I, he is not turned Quaker, for he wears a Perriwig, and he fell a laughing and jeering at him; said I, why do you deride this Gentleman, when he is a friend of Sir Richard Barker's.*

Lord Ch. Just. Where was Mr. Oates then?

Mayo, He was in the Court-yard, and I was in the Kitchen.

Lord Ch. Just. When was this? Mayo, The week before *Whitsontide*.

L. C. J. In what month? Mayo, It was in May.

Lord Ch. Just. Did you know him before then?

Mayo, No I did not, but I had heard much of him in the Family.

L. C. J. How soon did you see him again after that?

Mayo, About a Week after he came and brought another with him, and walked into the Garden, and seemed to be discontented that they did not shew such a countenance to him as they used to do in the House, for the Gentlewomen had heard he was turned *Jesuite* and therefore were very shy; that is, Sir Richard's Kinswomen, my Ladies Sisters Daughters.

Lord Ch. Just. Do you know Dr. Oates now?

Mayo, Very well Sir, Afterward he came again and walked into the Garden, and the young man I spoke of before, that is now dead, came again & took notice of him, of the strange Garbe he was in; he was in a Room that looked into the Garden, I saw him walking there, & said he, *Yonder is Oates again, and hath brought another with him;* he looked out of the window, and said he, *Perihee look here, does not he look like a Jesuite?* and he that was with him lookt back, & if it had not been for that, & the young man's importunity, I had never taken notice of Mr. Oates. After when I heard he was come over and gave in his Testimony about the Plot, I would needs go see him; but he spoke very slightly to me, and seemed to be offended with the Family because they did scorn him. Said I *They had no reason to countenance you, because we all understood you were turned Catholick. They did,* said he, *look very shy, upon me, Why said I, you must not be offended, for you know all the Family are no friends to Jesuites and I hope never will be so; but I hope Mr. Oates, you will not forget eaten Bread, because he used to be made very much of at Sir Richard Barker's.*

Sir Chr. Levins, Is that the man that you saw there?

Mayo, This is the man, if you will put me to my Oath again, I will swear it.

Sir Chr. Levins, When was this?

Mayo, It was the week before *Whitsontide*, it was in May, for *Whitsontide* fell in May.

Sir Chr. Levins, Then call Philip Page.

Who was sworn.)

Sir Chr. Levins, Do you know Dr. Oates?

Page, Yes Sir.

Sir Cbr Levins. How long have you known him?

Page I have known him four or five years.

L. C. J. Pray did you see him in the year 1678, last year? Page, Yes I did:

L. C. J. At what time? Page, About the beginning of May.

L. C. J. Where? Page, at Sir Richard Barker's,

Lord Ch. Just. Were you acquainted with him before?

Page, I had spoke with him before.

Lord Ch. Just. How do you know it was he. did you speak with him then?

Page, Yes, I did, Lord Ch. Just. What Habit was he in?

Page. He had a light-coloured Campaign Coat. I ask'd him where he had been so long a time that we had not seen him, but he turned away from me, and gave me no account, but after he had been in the house, made back again, and away he went, after he enquired for Sir Richard.

Lord Ch. Just. How do you know it was in May, why might it not be in April?

Page, It was in the beginning of May, to the best of my knowledge.

L. C. J. By what material Circumstances do you remember it was in the beginning of May? Is there any thing that puts it into your mind more particularly?

Page, My master had a patient at that time that was sick of a Fever.

L. C. J. Where? at Sir Richard Barker's House? Page. At Islington it was.

Jury, We desire to know what the Patients name was, for some of us know Islington very well.

Page. I Have forgot the name. Sir Rich. Barker, It was Aldram Milver's daughter,

L. C. J. It was about that time in May that you saw him.

Page, I did upon my Oath, and I spoke with him, and took much notice of him, he had an old black Hat on that flapp'd, and a pair of Spanish Leather shoes.

Sir Cbr. Levins, Call Sir Richard Barker.

Who was (sworn.)

L. C. J. Do you know Dr. Oates?

Sir Richard Barker, Yes, my Lord, I have known his Father and him ever since he hath been a Child; I saw him the last Summer.

L. C. J. About what time?

Sir Richard Barker, At that time that they have given in Evidence I have only this to say, I was abroad, as my business leads me often abroad into the Country, but they told me Mr. Oates came to my house in a Disguise, & that they believed he was turned either Quaker or Papist.

L. C. J. When was this?

Sir Richard Barker, It was, my Lord, to the best of my remembrance, after ~~Wint~~ ^{Winter} ~~side~~ that they told me, but they told me a Story of him, how that he was in two several Disguises, the one was a short Hair, and then they thought he was turned Quaker, another time he had a Long Perriwig, and then they thought he was turned Papist, and the first that told me was this Fellow here that is a Coachman of mine who was mending some thing of his Coach. It happened, my Lord, upon the visiting of a Gentleman that I was, very ill, in which time Mr. Oates was gone, and afterwards when I was recovered again he came to my house to enquire concerning Dr. Tongue.

L. C. J. When did you see him first?

Sir Richard Barker, It was my Lord to the best of my remembrance the latter end of June, or beginning of July upon my Recovery.

Lord C. J. By the Oath that you have taken, I would ask you one Question, Did

no

not you see him till June?

Sir Richard Barker. No my Lord: but my servants told me they had seen him in May before *Whitsuntide*.

L. C. J. Did you see him in June.

Sir Richard Barker, To the best of my remembrance it was in June.

Then o.e Butler was sworn.

L. C. J. Come do you know Dr. Oates?

Butler Yes, very well.

Lord Ch. J. How long have you known him?

Butler, I have known him these three years, before he went beyond Sea.

L. C. J. Come, you are upon your Oath, when did you see Dr. Oates, and where? the beginning of last Summer.

Butler. I saw him in the beginning of last May at my Masters house in Barbican.

L. C. J. Upon what occasion; what are you?

Butler. I am Sir Richard Barker's Coachman. And I was making clean my coach in the Gate-house & in comes Drs Oates, in May; last was twelve-moneth, the beginning of May; with his Hair cut off, close cropped to his Ears, in Gray Cloaths, a Gray Coat like a Shepherds Coat, a *Tork-shire* Gray, he asked me whether Dr. Tongue was within, I told him no, nevertheless he went into the house, & immediately came out again, & seemed to be very much discontented, but said nothing at all to me, but passed by me, & went away.

L. C. J. And did you know him at that time he spoke to you first?

Butler, Yes my Lord, because I knew him three years before.

L. C. J. You could have then called him by his name;

Butler. Yes my Lord I could.

L. C. J. You say he came to inquire for Dr. Tongue, and was discontented that he could not see him.

Butler. He said nothing to me when he came out, but passed away as one that was troubled.

L. C. J. Did you see him afterwards?

Butler, Six weeks after I saw him; and then he had a long black Coat and a perwig on;

L. C. J. But are you sure it was the same man? Butler. I am upon my Oath.

Mr. Just. *Dolben*, Did you tell your mr. of his being there the first time?

Butler, I did tell Sir Richard Barker of him as soon as I saw him.

L. C. J. Sir Richard, how soon did he tell you Oates was first there,

Sir Richard Barker, It was soon after, my Lord.

L. C. J. Was it in May that he told you he had seen him?

Sir Richard Barker, He told me as soon as ever I came home, in May as I remember.

L. C. J. Did he tell you mr. Oates was there by name?

Sir Richard Barker, Yes, my Lord, he did; And when he told me what Habit he was in, I wondred at it.

Dr Oates, There are several, my Lord, that did see me at that time, but they are gone into the Country, and I cannot have them now ready: If you please now to call Mr Smith, the School-master of *Islington*.

Who was sworn.

Sir C. Levines. Do you know Dr. Oates?

Mr. Smith, Yes, very well.

Sir. C. Le. Pray Sir, how long have you known him?

Mr. Smith, He was my Scholar at *Merebant-Taylor's* School, where I was Usher.

Sir, C. Lev. When did you see him, the beginning of last Summer?

Mr. Smith, I saw him in the beginning of last May, that is 1678.

L. C. J. Where did you see him? Mr. Sm. He dined with me at my house in *Islington*.

Mr.

Mr. J. Dolben, What, the Boys at St. Omers now are gone?

L. C. J. Recollect your self well : By the Oath you have taken, did Dr. Oates in May was twelve month dine with you.

Mr. Smith, Yes my Lord he did, and it was the first Munday in May as I remember.

Mr. J. D. And this you swear directly and positively? Mr. S. Yes, my Lord I do.

L. C. J. How long did he stay there?

Mr. Smith. He staid 3 or 4 hours after: And, may it please you my Lord, he was in a Summer suit, and a coloured Ribbon, a green knot upon his shoulder.

L. C. J. What did you discourse about?

Mr. Smith. About his being in Spain, and Flanders, and his Travels.

L. C. J. Had you a long discourse with him? Mr. Smith, Yes, I had.

L. C. J. Had you nothing about the Times? Mr. Smith. No, my Lord, not a word.

L. C. J. Did you understand he had been turned Roman Catholick?

Mr. Smith. I did know it.

Jury, my Lord, did Mr. Smith see him any other time after that?

Mr. S. No, my Lord, not in 2 months, to my remembrance about the middle of August.

Sir Cbr. Levins, Call one Clay.

(who was sworn)

L. C. J. Do you know Dr. Oates?

Mr. Clay, Yes, my Lord, I do.

L. C. J. How long have you known him.

Mr. Clay, Ever since April last was twelve-month,

L. C. J. Was that the first time of your Acquaintance with him?

Mr. Clay, Yes, at Mr. Charles Howards,

L. C. J. Where were you there with him?

Mr. Clay, He lived in one corner of old Arundel house,

L. C. J. How came you acquainted with him?

Mr. Clay, Truly I met him accidentally at Mr. Howards house.

L. C. J. How came you to come there? Mr. Clay, I was there to visit Mr. Howard, a Friend;

L. C. J. Were you acquainted with him?

Mr. Clay, Yes, I was with Mr. Howard, and there I saw Dr. Oates.

L. C. J. When did you see him the second time?

Mr. Clay, The second time I think I saw him there too.

L. C. J. When was that?

Mr. Clay, That was in May.

L. C. J. North. How long was that after.

Mr. Clay, I think the other was in April.

L. C. J. And did you see him in May?

Mr. Clay, I saw him in May too.

L. J. C. Clay, What time of the month was it?

Mr. I cannot exactly speak to that, but it was in that month as I remember, I am morally certain of it.

L. C. J. And when did you see him after May?

Mr. Clay, I cant tell whether I saw him after May or not.

L. C. J. Is that the same man that you saw at Mr. Howards either in April or May?

Mr. Clay, Yes; my Lord, it is the same man.

Sir Charles Levins. Then we have done without Evidence.

L. C. J. Come Gentlemen now what can you say to this? They have given you w their full charge.

Dr. Oates, my Lord, I have one thing more, I desire your Lordship to take notice,

this Gent. *Mr. Clay* is a Priest in Orders, as they say.

L. C. J. I will not ask him that question; but *Mr. Clay*; are you a Papist?

Mr. Clay, Yes, my Lord, I am so.

L. C. J. Norib. Come what say you now *Mr. Whitebread* to this,

Whitebread, I have this to say; first, That at my last Trial when I press'd him to declare who had seen him, when he said he was here in Town, he could name no body, not one. I know afterwards he was examined at the Committee, and then he could name no body neither. He said he was there privately at *Mr. Groves*, and we can prove that he never did lye there in his life. And then he said absolutely he had not seen much Company, he stay'd but 6 days. Now this good Dr. that does say he saw him here in the latter end of *March*, or the middle of *April*, whereas he himself says he came over with *Hickey* the 24th of *April*.

L. C. J. He was Landed here the 17th of *April*, and the Witnesses say it was the latter end of *April*, or beginning of *May*.

Whitebread, *Mr. Oates* expressly said he stay'd here but 6 days when he came over to the Consult.

L. C. J. Why does not all this stand together?

Whitebread, No, my Lord, how could this stand together? His coming over the 17th, and his being here a great part in *May*, whereas he says, he was but 6 days.

L. C. J. Perchance Dr. *Oates* may be precise enough, but look you here, these Witnesses, do not so exactly to a day or two, or 3, or 4 or 5, but to the latter end of *April*, now why might they not see him the latter end of *April*, and the beginning of *May*, and yet stand very well with *Mr. Oates* testimony, who says he was landed here about the 17th of *April*, and staid here about 6 or 7 days? How nice would you have them be in that case, which because they are honest, they will not be.

L. C. J. Nor. You make your defences to depend upon an uncertainty of time, which no mortal man can ever remember besides, pray observe this, That *Mr. Oates* stands a good witness till you impeach him by a fry out of your own Schools, and they go to the whole months of *June* and *April*, and *May*, now these all speak in contradiction to them, and so *Mr. Oates* is still set an upright and good witness.

Whitebread, They say they did see him there every day, or every other day.

L. C. J. But sure I can as well tell who see him but once in such a month and dined with him, then as any that saw him never so often; but here are five Witnesses upon you in this point.

Whitebread, The one was told by his man, the other by his boy.

L. C. J. The Coach-man, and the boy, and the maid, and *Mr. Smith* did see him.

Mr. Jost Pemberton. The Divine did see him, and went and told the woman that he had seen him, pray remember that.

L. C. J. Nor. Now the Evidence is concluded, say what you will for your selves, and then we will observe what you object upon our direction to the Jury, according to our Conscience.

Gaven, My Lord, then I say this for my self, we commit our selves to God Almighty. We must compare the number, tho ours were not sworn, yet there were 16 of them, boys, young men, that conversed with him every day, and these witnesses speak but of one or two particular days: One says he dined with him, and another saw him in a disguise; but my Lord in these very Witnesses there is an apparent contradiction, because

out of his own mouth (*ex ore tuo te judico*) they are contradicted. He says he came over upon *Sunday* with *Milley* which was the 20th. of *April* as I think, and staid here only a matter of 6 days. One of the witnesses says he saw him the first *Munday* in *May*. What signifie the witnesses, though upon Oath, that say they him in *May*? How can he come over the 20th. of *April*, and stay but 6 days; and be seen here in *May*? Before these can be reconciled, one of them must be false; and then my Lord, besides, that which I first said, there is the number of witnesses, they are nothing in comparison with the number of ours. And then my Lord, 2dly, if we should grant that a lesser number should serve the turn, because they are sworn for the King, because they swear for the safety of the King (whom God preserve, whatsoever becomes of me) and the other speak not upon their Oaths, yet my Lord, this does not destroy nor touch at all that evidence that is brought against him about the Rector of *Leige*, Sir *John Warner*, and Sir *Thomas Preston*. And tho it be granted that all the others that spoke about mr. *Oates* being at *St. Omers* be mistaken, and must not be believed, yet we have him still by those 6 others who have proved that he hath sworn false, and I hope we shall have fair play in the Law, to make the best defence we can for our lives; and I humbly conceive, no body must be convicted of High Treason by the Law, but upon the Evidence of two sufficient witnesses. Now I leave it to the Conscience & Honour of the Court, whether he shall be believed, and counted a sufficient witness, when there are so many that have proved him false in that one point. And then besides all this my Lord, we have here 16 at least *Staffordshire* Witnesses who give you an account of mr. *Irelands* being out of *London* from the 3d. of *August* till 14 *September*. so that in these two things he hath been contradicted without any Answer, for he says, the 12. of *August* he was with him, when they say he was in *Staffordshire*. L. C. J. You have forgot the maid that saw him in *London* the 12 or 13.

Gaven. No, my Lord, I have not. And this is it I answer to it, She is a witness that only says she just saw him, but did not speak to him.

L. C. J. She made a Courtessie to him.

Gaven. We are talking now of seeing *Ireland* in *August*, and we prove by Sir *John Southbroott* and all his Family, who say they began their journey with him the 5th. of *August*, and staid with him till the 19th. after the particular day that she speaks of, you find 7 or 8 of them swear that they saw him all the time. And therefore I would feign know whether poor mens lives shall be cast away upon such Evidence as this. And then my Lord; for the other thing, I hope I have made a very good Plea for my self concerning the matter of *July*, my witnesses could be positive, as to the last week, but for the other weekes tho, they could not be positive; they rather believed I was there then not, but when it is urged, why might not they give as good a testimony for the former weekes as for that. To this I answer fully, that there is a great & predominant reason why they should have particular reason to swear why I should be there the last week rather than the other weekes, because I was then shut up in the spiritual exercise, & they had a particular reason to take notice of that. Then my Lord, I hope you will be pleased to mind this by which I have made my Plea good, that is, my Lord, that mr. *Oates* testimony against me is this, mr. *Ashby* came to town about the middle of *July*, and that he stay'd there about a fortnight, and that in the time of that fortnight I came to Town, and said I would go see Father *Ashby*, and had that discourse he speaks of, and so much for that. And then my Lord, I beseech you still to bear it in your mind that I have been proved not to be in Town at the time of the great Consult about the Plot.

and indeed I was not capable of it, for I was not then Professed, and there could None be of that congregation about the Plot, but those that were professed, I could not be there in the Congregation by reason of my Age, *mr. Harcourt* here and the rest, if you will ask them, will tell you it, they were there, but upon the word of a dying man I was not there.

L. C. J. 'Tis not positively said by *Mr. Oates* that you were.

Gaven, But then my Lord, he says, my Name was to it, which he saw in *July*, now I prove that I was in *Stafford-shire* the last week of *July*, and seeing I have witnesses to prove that I was there till the 14th, & the last week & it was after the 14th, that he saw me, I hope my Plea is good. Then my Lord, I ground my Plea upon this, I have studied Philosophy and other things, but I never studied the Law, and so am very ignorant of it; but this is my Case, I am accused by one Witness concerning one Fact, and by another concerning another, the one committed here at *London*, the other in *Stafford-shire*; I desire therefore to know whether the Witness that swears the thing done in *Stafford-shire* in another County being joyned to the other Witness that swears what was done in *London*, can be esteemed two witnesses according to the Law, to convict me of Treason.

L. C. J. North, Yes, I'll tell you if it were a matter of doubt, it might be found specially, and be argued, but it is a matter that hath been already resolved in the Case of *Sir Henry Vane* at the *Kings Bench Barr*, who was indicted for levying War against the King, and there one Witness proved the levying of War in one County, and the other proved the levying of War in another County, and so though they were but single witnesses of single Facts, yet being both came up to the Indictment, they were adjudged sufficient to maintain it. So it is in your Case, here is one witness for the proving your hand to the Paper, which was for the Murder of the King, and there is another witness of your discourse to the same purpose, the Fact is your joining and conspiring to destroy the King, and to levy War against him, and both these are proved, to the full of the Indictment by these witnesses; and though they are to several particular Facts, yet they are all Overt acts of the same Treason.

Gaven. My Lord, I have a contrary opinion to that in *Serjeant Rolls*.

L. C. J. North, But this is a known Case, and the Law is settled therein.

L. C. J. I'll tell you what you mistake in what you say, for there are two witnesses, *Oates* and *Dugdale*, who swear to the same Fact, which is killing the King, altering the Government, and bringing in Popery. *Oates* says, He saw your hand to the Consult, for the Murder of the King, for the raising the Army, and for the introducing of Popery, which is a necessary consequence of change of Government; *Dugdale* says he was with you in the Parlor at my Lord *Aston's*, where the discourse was between him and you, and others, about killing the King, and altering Religion. Are not these two witnesses to one and the same Treason.

Gaven, No my Lord, I conceive not.

L. C. J. If I consult a way to kill the King here, and then I go into the Country, and there I consult of it with another person, are not these two Witnesses to the same Treason, sure they are?

Gaven. Then my Lord, my second Plea is this, If there be two witnesses, you will grant me this ground, that no man must be convicted but upon the Evidence of two Legal and credible witnesses, and upon clear Evidence, as the Statute since His Majesty's happy Restauration does declare. Now two things are required certainly to make a credible Witness, and a clear Evidence as the Witness must be credible, so the

as agreeable to reason that the Evidence must be plain and clear, yea as clear as the light of the Sun at Mid-day. Now therefore if I prove, that neither the Witness is credible, such as the Law requires, nor the Evidence clear, such as the Law looks upon as such, then I ought not to be convicted by this Witness upon this Evidence.

L. C. J. The Jury are Judges of that, and therefore there I leave it.

L. C. J. North. You argue mighty subtilly, but I'll give you this answer, there must be two lawful Witnesses; that is the law; a man cannot be impeached of Treason but by two lawful Witnesses; now if they be not convicted of perjury, and their Testimony be not taken away, but they may be heard in a Court of Justice, they are lawful Witnesses; now for the being credible Witnesses, that is a matter that is left to the Jury, but we must receive them as lawful Witnesses till they be convicted of a crime that takes away their Testimony.

Gavan. Therefore because they are left to the Jury, I am satisfied, and I turn my self to you Gentlemen. You are to sit upon my Life and my Death, as for my own part I can truly profess I am as innocent as the Child unborn, and this Gentleman *Mr. Whitebread* knows I was not capable of being at the Consult, being not of age. Now I must leave my self to the Jury, and will leave it to their judgments whether these two Witnesses can be esteemed credible Witnesses; for to make credible Witnesses there is required honesty of life, and truth in their Testimony, for no man can be a good Witness that is not an honest man, nor that hath carryed himself so that he is not to be believed. As to the honesty of *Mr. Oates* his life, you have heard that he was disguised by the Jesuites, esteemed not a person of that diligence or fidelity to be intrusted by them; He was turned out of *St. Omers*,

Lord Chief Just. Does that prove any dishonesty in *Mr. Oates*?

Gavan. No, but I speak to his Credibility.

Lord Chief Just. Speak plain, how does it impeach *Mr. Oates* his Evidence, that the Jesuits did not like him.

Gavan. It might be a ground of hatred amnd alice in him against them, and then Gentlemen, I desire you to consider that other thing, That we have proved him to speak false in his Testimony about *Sir John Warner* and *Sir Tho. Preston*; and all the business of the 12th of *August* concerning *Mr. Ireland* being here th: 12th of *August*, who by sixteen Witnesses, is proved to have been all the while in *Staffordshire*. And though he was not convicted of Perjury before, which might have easily been done, as I have shewn to the whole world now, I appeal to the Honour and Conscience of the Jury, whether all these proofs ought not to make this Witness to be deemed an incredible Witness. And pray Gentlemen hear me this, and carry this away with you, as to the business of *Ireland*, between the eighth and twelfth of *August*, how many do swear that he was in *Staffordshire*, I desire you but to compare that one Woman that only saw him, and made a Curtesie to him, as she says, with those sixteen Witnesses that conversed with him daily. Then as for the second Testimony of the *St. Omers* Witnesses, which you see is thwarted by some that do swear in the Kings name to the contrary. Still I desire you to compare number with number, the others though they do not swear, are ready to swear, and there are only 3 or 4 against 16 of them, and there is an evident contradiction in what they say, and that proved out of his own mouth; for he says he came over the twentieth of *April* with *Mr. Hilsley*, and stay'd only six days; they say he was here in *May*, and I desire these may be compa-

red : for how could it be that he should be here in *May*, if he staid but six days. And then to make your Verdict, and take their Credit away, I would desire you to consider those Witnesses that I have brought for my self, not being here ; but in *Wolverhampton* ; for being in *Stafford-shire* as long as till the last week of *July*, it must fall within the time of his Testimony. I have brought Witnesses to prove upon Oath, that from the twenty second upward, they saw me in *Wolverhampton* ; and they do remember the particular instance, that I was then at my spiritual exercise ; and this is that I have to say as to *Mr. Oates*. As for *Mr. Dugdale*, I would desire you to reflect upon the whole story of his coming to discover this Plot, and his being an Informer about it. The truth is, I confess I have known him five or six years whilst he lived at my Lord *Astons*, and I have divers times discoursed with him there in *Mr. Ewers* Chamber, but as I hope to be saved never any thing of Treason in all my life. Now 'tis well known, and there are those that can testify it, that in truth *Dugdale* run away from my Lord *Astons* after he had lost three hundred pound of my Lords money.

Lord Chief Just. If you can say any thing against *Mr. Dugdale* by Witnesses that you can prove it, then you say well, but if you will tell a story out of one Lords mouth and another Lords mouth, that is never to be indured, you shall never take away a mans Testimony by hearsay, you must prove it.

Gaven. 'Tis well known, if I prove *Dugdale* no credible Witness, I play my own game. You know I have been a Prisoner 20 weeks and could not seek out Witnesses, I asked it as soon as I knew of my Tryal, but it was denied me to send for Witness to prove that *Dugdale* was in Goal for Debt. If I had the Records Warrant, or the Authority of this Bench I could send for them.

L. C. J. You must not fall upon Persons without Evidence, if you have Witnesses to prove any thing, whom the Jury will believe, call them.

Gav. I do assure your Lordship, as I hope to see the face of God, I am innocent of what is charged upon me. And God bless the King and this Honourable Court.

Lord Chief Just. Though you do a hundred times bless the King and Court and all, you must prove things if you will be believed, What say you Master *Whitebread*?

Whitebread. My Lord, I have but one thing to say, and 'tis but a word: your Lordship was pleased to make an Ob'servation, and a good one it was, a Letter which *Mr. Dugdale* says was written by me to *Mr. Ewers*, which he says he intercepted, he was in the mean time a trusty correspondent for his Friend. In that Letter he swears there was expressly contained positive words, of entertaining persons to kill the King, that only such as were hardy, desperate and stout, but as your Lordship well observed, that it was an improbable thing that a man who had his Wits about him should write such plain expressions about such a matter, and upon that improbability. I leave it to the Jury.

Mr. Just. Pemberton. Have you any thing to say *Mr. Fenwick*?

Fenwick, I desire, my Lord, your Lordship and the Jury to consider and observe the nature both of our Witnesses, and of them that are brought against us. The one speak for the whole time that they saw him every day or every other day; they daily conversed with him and eat and drank with him in the same house, the others they say

say only they saw him one particular day, another, another 3, and one of them sayes he saw him but in a disguise. Now my Lord, whether it be likely that so many innocent Children brought up in a good virtuous life should come here to forswear themselves to contradict people that we know not what they are, and then besides, we know that these people are of a poor mean beggarly condition, that intend to mend that condition by such a pretence of discovery, and hope thereby to advance themselves. It is probable, such people might be drawn in. Then also we shall prove that Sir *John Warner* did not come over with him, nor Mr. *Williams*, nor Sir *Thomas Preston*. Then all his Witness as to them is false, and he does not say he went back with these people, and this for the Witnesses. Now suppose the Witnesses were all equal, what does he prove against us Three? Or what reason doth he give of his Evidence. He says, he saw such and such Letters from Mr. *Whitebread*. Now is it possible that a man that had no credit at all with us, that we should be such fools to trust him with such Letters as those, then your Lordships must hang us twice, once for Fools and then for Knaves. Or is it possible that we should be such egregious Fools that we should trust a man that was never esteemed of, was expelled the Colledge. And for all his talk of Commissions and Letters, there is not one of those found, let him shew any one Commission, any money paid, or any Order brought in, or any Arms that were found, there are three quarters of a year now passed since the first discovery, certainly all this time could produce something. Thousands of Letters have been taken from us, some of those Letters would have discovered this thing: certainly therefore we have better Evidence than he hath, supposing them to be equal as to Credibility in their Original. Is it credible we should be so great Rogues to contrive the Kings Death, though he speaks of the Writing being carried from Chamber to Chamber concerning this matter, he can never produce one Paper signed by any one mans hand, nor can he produce any thing to attest his Testimony. I leave this to your Lordships judgment whether this Evidence be good, there is nothing appears in so much time of any effect that is produced: Where were the Armies? Where were the monies paid? Where the Commissions? Is it possible such a thing should be, and no sign of it for a whole year almost? there is no reason brought amongst them all, but saying and swearing, and that I will stand by.

Whitebread. I thank God I don't look like a fighting-man, nor I never did; but who can think that I should be so mad, when I had committed such a secret to him, to beat him, as he says. 'Tis strange that such a Plot should be discovered wherein so many Persons of Quality, Honour and Reputation are said to be concerned, and yet no footsteps of it appear, and none of them, as my Lord *Arundel*, my Lord *Bellasis*, should never divulge such a Plot; I would feign know whether such a thing be probable, but I commend my self to God Almighty and the Jury.

Harcourt. My Lord, I have onl. this to say, I have lived to this age, which is 70 years, and I never knew any man that could say I was accused of the thing in the world, for which I should be brought before any Magistrate, and it is strange that after so many years I should come to be arraigned, and condemned for a Crime of the highest Nature, and there is no reason brought against me nor any of the rest, for the proof of what is alledged, nor do they who are the Witnesses against us deserve at all any Credit: They only affirm such and such things without any reason, to persuade you to believe them, and it is easie to say, and so it is to swear it. So that I

I have to say is this, since a Negative cannot be proved, I hope innocency will find some that shall defend it. I leave my self to the Bench; for the Law is the defence of innocency. If they did bring any Evidence besides that, which is down right positive swearing, without any reason or concurrent reason to confirm it, it were something.

Fenwick, And besides all this, to think how these men have lived before time is worth reflection and considering. As for *Bedloe*, he hath been a very ill man, the world knows it.

Lord Chief Just. Have you proved it? Can you shew any Record of it?

Mr. Just. Pemberton, Turner, Have you any thing to say? You have had your time.

Fenwick, You will find that *Nemo repente fit nequissimus*, No man arrives at the highest degrees of impiety at first: men grow extremely wicked by degrees. But let us see if they can blame our lives, or any thing that we have done at any time before; we prove, and all the world knows what they have been, and how scandalously they have lived.

Gaven. Our Witnesses are to be regarded for their number and for their innocency, especially since they give no reason nor convincing arguments for what they do affirm.

Lord Chief Just. We would hear you, and we have heard you very long, but it must not be permitted you to go over the same things again and again.

Lord Chief Baron. Hath Turner any thing to say?

Turner. All that I have to say my Lord is this, To ask whether it be reasonable that *Bedloe* and *Oates* should be looked upon as good Witnesses, that these Persons who have been such scandalous people should be admitted to an Oath, who are debarred from the Sacrament; for according to the Church of England, no man that is publicly scandalous can be admitted to the Sacrament.

Lord Chief Just. But you prove nothing.

Turner. I can prove it first by Evidence of one *Hastings*.

Lord Chief Just. Call him.

But he appeared not.

The Lord Chief Justice, Directions to the Jury, against Whitebread, &c.

L. C. J. Gentlemen of the Jury! Here hath been a very long Evidence, and a very confused one; and you cannot expect, that it should be wholly Repeated to you; For it is almost impossible, for any one to remember it; neither would I if I could, because a great deal of it is impertinent, and vainly to be repeated: And besides, many things have been said over, and over again, to no purpose. But I will observe to you, as well as I can, what Testimonies there are against each particular Man of them; and that I do look upon, to be very material. And I leave it to you, to judge and consider, how far the Evidence is Credible, and how far it is Substantial.

Against Mr. *Whitebread*, you have the Testimony of three, *Oates*, *Dugdale*, and *Bedloe*: Against Mr. *Fenwick*, you have the Testimony of *Oates*, *Bedloe*, and *Praunee*: Against *Harcourt*, you have *Oates*, *Dugdale*, *Bedloe*, and *Praunee*. You have against *Gaven*, *Dugdale* and *Oates*; and against *Turner*, *Dugdale* and *Oates*: So that, to the two last you have two, three to the two first, and four to *Harcourt*.

Now

Now, the matter that they have sworn, hath been all tending to one thing; the Murder of the King, the Advancing of Popery, and the Suppression of the Protestant Religion: That is the Thing, that all the Evidence does drive at.

For *Dugdale*, for ought we can perceive, he hath been upon the matter a Stranger to *Oates* and *Bedlow*; and I do not find, that he had any correspondence with, or knowledge of them, at the time he charges Mr *Harsnett*, and Mr *Gaven*. And he charges them with the very self same things, viz. the consulting the death of the King, and Advancement of Popery. And they have several instances of the Facts, as their several consultations; how they met together, and where, or at what place: And *Dugdale* tells you of a letter, that he found; wherein *Whitbread* gave charge, for the entertainment of good stout Fellows; No matter for Gentlemen, so they were Resolute. And so they have several Mediums, to prove one and the same Thing.

Mr. *Fenwick* says to all this, Here is nothing against us, but Talking and Swearing. But for that, he hath been told; (if it were possible for him to learn) that all Testimony is but Talking and Swearing: For all Things, all Men's lives and fortunes, are determined by an Oath; and an Oath is by talking, by kissing the Book, and calling God to Witness to the Truth of what is said. That is the Essence of an Oath, and those are the Ceremonies: The kissing the Book, and Speaking, is the accidental Form; the substance, is Calling God to Witness. Therefore, What a vain thing is it in Mr. *Fenwick*, to seem to Triumph, by saying, There is nothing against us, but Talking and Swearing. There is nothing against them, but Evidence and proof of Men upon Oath: And their Reasons, the Truth is, are very Trifles. They defend their Lives as they do their Religion, weak Arguments; and fallacious Reasons.

For that long Business, that Mr. *Gaven* hath undertaken to say against Mr. *Oates*, and what they all insist upon, viz. the Number of their Witnesses, which were sixteen, amounts to this, to disprove Mr. *Oates*, that it could not be true what he says, That he should be present here at a Consult, the Twenty-Fourth of April, because they have brought sixteen from St. Omers to prove, That he was there all April and May.

'Tis very true now, if that be so, it is impossible, *Oates* can swear an Truth: But whether that is to be believ'd or no, is the Question? methinks, they did not do well for themselves, when they bid you remember the Nature of the Evidence. They did well enough, to bid you remember the Number: for the Number is more than what *Oates* is back'd with on t'other side; but the Nature is of much less weight: Not only because they are not upon their Oaths, for by Law they may not be upon their Oaths (and that must not be charged on them as a Defect, seeing they would swear, I doubt not, if they might) but because their Testimony is really to be believed much alike without an Oath; as with one; because they are of a Religion that can dispense with Oaths, tho' false, for the sake of a Good Cause.

But, seeing they desire the Nature of the men may be considered, you are to observe, that they are Profelytes, and Young Striplings of their Church; which does indeed, in one respect or other, abuse all Her Disciples, and keeps them in a blind Obedience, to pursue and effect all Her Commands.

If the Doctrins of that Church were better; If such which are allowed by their Chief Authors, were but less Bloody and inhumane; If they had ever put those that are set into an *Index Expurgatorius*, that they might have been publicly disowned, and declared as the particular Opinions of some ill men, which they did disavow; These mea-

might have been then more worthy to be regarded. But when none of their *Paper* have done this (who must have very strange foreheads, if they say, they have) and such Doctrines are still owned : there is much indeed to be observed from the *Nature* of the Evidence, the *Nature* of the men, and their Profession.

I must confess, I believe, that they would deny their principles to be bloody, or to be defended and allowed by any of their best authours, if at this time, the fear of apparent Falshood did not deter them: But if to Murder Kings, or to depose them, and Absolve their Subjects from their Allegiance for the advancement of Religion, be a Thing most impious, and void of Religion, and makes Religion worse than none; which Doctrine yet they have owned, and their Counsells have owned, and we have proved it upon them, and out of them : I cannot tell what to say to these men, or their Testimony, the *Nature* of whom they desire to be considered.

But they were Young Boys, sent for hither on purpose to give this Testimony; and it was not indeed, a Fault in the Prisoners at the Bar, to send for what Evidence they could for themselves; But it is very doubtful and suspicious, to have such green, and flexible minds, thus employ'd, and I must leave it to you, to consider how far these Young men train'd in such principles, may be prevailed on, to speak what is not True.

And now if the Kings Evidence after this, stood alone, it were yet something; but when you have Mr. *Oates* Testimony as to this great matter of his appearing in *April*, confirmed by 7 or 8 Witnesses, that speak so expressly to it, how will they answer it? Do they make Sir *Ric: Barker*, a person of no value; do they so little esteem the Minister that says, I knew him though he was in disguise; And went and said it presently to a Woman, that he knew was acquainted with *Oates*. And asking her, when she saw Mr. *Oates* and she saying, not a great while: he said, I saw him later then you; and says he did know him: And this is confirmed still by Sir *Rich: Barker*, who tells you, that his men told him, that he had been there. What should make them to acquaint their master so, if it were not so? Or do you think it is a thing maliciously prepared or invented to take away the lives of these men, that his men should tell him a story so long ago? If it be not true, to what purpose should they tell him so; and if it be true, it confirms the matter sworn against them.

There is he, that was his companion, the School-master, that says, in the beginning of *May* was twelveth month, Mr. *Oates* dined with him at his house, late with him Four hours, discurfing of his Travels into *Spain* and *St. Omers*; And there is the man that is a *Papist*, if not a *Priest*, that swears he saw him twice, about the middle of *April*, at Mr. *Charles Howards* lodgings in *Arundels* house; so that here are seven Witnesses direct or circumstantial, to prove Mr. *Oates* to have been in *London*, in *April* and *May* 70.

But said they This is but *Talking* and *Swearing*. Very fine! and the *St. Omers* Youths is *Talking*, but not *Swearing*. Ay, but then their Numbers are not so many. That Gentlemen, I leave to you, for both cannot be true. The Testimony of Mr. *Oates*, and the witnesses that he had to back himself withall, and to prove himself to be here is inconsistent with what the young men say, that he was at *St. Omers*,

Now if you observe; All these mens Defence is in the Circumstantial part of the evidence in watching and catching at what day, What hour, and what month, how Mr. *Oates* reckoned false, so and so: If he came here about the 20th of *April*, how could they see him the first of *May*. And they think then, they have got such a mighty victory, but it is not so weighty an argument with *Protestants* after all their conceits, that it is un-

answerable; For here is the point, the matter of time is a thing, that no man can so precisely charge his memory with, as that it should be too Strictly the measure of your Judgments about truth or falsehood, by the mistake of 7 or 8 days. Examine your selves how often every day you do mistake things that have been transacted half a year ago, and err in point of time? taking one week for another, and one Month for another, and though I must say, it is considerable, yet too great weight is not to be laid upon that.

As for that they insist upon so much, the coming over of Sir *Thomas Preston* and Sir *John Warner* with Mr. *Oates*; It is true, Three or Four Witnesses speak, as to Sir *John Warner*, and some to Sir *Thomas Preston*; and they say, they were both beyond Sea when Mr. *Oates* came over; but if the Sixteen be not to be believed in the first matter, and if Mr. *Oates* does say true, notwithstanding all their Evidence, that he was here such a time in *April* and *May*, Then I'll tell you what Inference may naturally be; to wit, That they can't want a Witness to prove what they please: For I believe there is none of them all will make any bones of it.

I say (Gentlemen) if you are satisfied in your Consciences, that the Evidence on Mr. *Oates* his part to that point (that is to say, seven Witnesses) ought to prevail with you, to believe he was here in those months (notwithstanding the 16 Witnesses, who say they saw him every day beyond Sea in *April* and *May*), Their other Evidence about his coming over with *Preston* and *Warner*, will have no great weight; because the other is the great matter, by which they make the substance of their defence.

I am glad indeed to see a Gentleman here whose Face I never saw before, and that is Mr. *Dugdale*. Upon my word he hath escaped well, for I find little said against him, very little either as to the matter or the manner of his Evidence. They would have made reflection on him for his Poverty, but I hope that they whose Religion is to vow Poverty, will never insist on that for any great Objection against any.

L. C. J. *North*, Your Lordship hath forgot that he said he gave away Three or four Hundred Pounds to them.

L. C. J. But I will Challenge all the Papists in England, to satisfy any Man that hears me this day of one piece of Evidence, which will turn every Protestants heart against the Papists. If so be, they murdered Sir *Edmundbury Godfrey*, the Plot even by that is in a great measure proved upon them, by that base murder. And what can be a plainer proof of it, than the Evidence of this day, which Mr. *Dugdale* produces? We had notice (saith he) on Monday night, that on the Saturday before Sir *Edmundbury Godfrey* was kill'd (which falls out to be that very Saturday he was first missing) which notice was given in a Letter writ by *Harcourt* to *Evers*, another Priest, that same Saturday night; wherein were these words, *This night Sir Edmundbury Godfrey is dispatched*; and I am sure if this be true, then no man can say but they murdered him.

Whitebread. It is not alledged against any of Us.

Lord Chief Just. It is an Evidence of the Plot in general, and to *Harcourt* in particular.

Harcourt, He never shews the Letter that he says I writ.

L. C. 7. He says, that he used to peruse the letters; and that *Evers* had this again, after he had perused it; He says also, he has received at times a hundred letters from you, and this among the rest. Now the Question is, whether it be true or no? To make it out, he produces *Mr. Chetwynd*, whom I hope you will not deny to be a Gentleman of one of the best Family of his Country, and of honest Reputation, who says, that on the Tuesday following that Saturday *Sir Edmund-bury-Godfrey* was kill'd, he and another were talking together in *Staffordshir*, and that the other person asked him if he knew of the death of any Justice of the Peace at *Westminster*, and when he told him, he had heard of no such thing; No said he, that is strange, you living sometimes about *Westminster*, for said he, the Wench at the Ale-house saye, That this morning *Mr. Dugdale* said, to two other Gentlemen, there was a Justice of Peace of *Westminster*, Kill'd; and *Mr. Dugdale* swears, that was *Sir Edmund-bury Godfrey*. Now, if *Dugdale* be fit to be believed, that he saw such a Letter, as he must be it, he be not a very great Prophet to be able to foretell this: Or if the Maid that said this, did not invent it (A thing then impossible to be done) Or *Mr. Chetwynd* feigned, that he heard the man make his Report from the maid; This thing could not come to pass, but by these men. Nay, if *Mr. Dugdale* could not do as great a Miracle as any are in the *Papish Legends*, how could he tell, that it was done on the same Night when it was done at London? Or speak of it, on the *Munday*-night after when it was not known in London till the *Thursday* following? This will stick, I assure you (Sirs) upon all your party.

For my own part, this Evidence of *Mr. Dugdale* gives me the greatest satisfaction of any thing in the world in this matter; and whilst we rest satisfied in the murder of that Man, and are morally certain you must do it, knowing of what Principles you are, you cannot blame us, if upon such manifest Reasons we lay it upon you.

And this is Occasional Evidence, which I for my part never heard before this day; nor can I ever be more, or better satisfied, than I am upon this point, viz. The Testimony that I have received this Afternoon concerning the Murder of *Sir Edmund-bury Godfrey*. As to the Defence they have made, they are Exceptions in point of time, but do not affect *Mr. Dugdale*; for they have hardly the confidence to deny the Things he sayes to be true against them.

They fall foul indeed upon *Mr. Owen*: he appears to have been their Agents; and whilst so, had enough: But if he had not had a mind to have become a good man, he would not likely have done us that Good that he hath done, in discovering the design you had engaged him in. Let any man Judge, by your Principles and Practices, what you would not do, for the promoting of the same.

For while this Gentlemans Blood lies upon you (and some have been Executed for it), it must be yet farther told you, that in what you *Did* do, you have given us a specimen of what you *Would* do. We have a Testimony, that for promoting your Cause, you would not stick at the Protestants Blood. You began with *Sir Edmund-bury Godfrey*, but who knows where you would have made an End! It was this one Man you Kill'd in his Person, but in Effigie the Whole Nation. It was in one mans Blood your Hands are Embrewed; but your Souls were Dipt in the Blood of us all. This was a Hundsel only (if what was to follow); and so long as we are convinced you Kill'd him, we cannot but believe, you would also Kill the King. We cannot but believe you would make all of us away, that stand in the way of your Religion: A Religion, which we would bring in upon us; by a Conversion of us with Blood;

and by a Baptism with Fire. God keep our Land from the one, and our City from the other!

To return, The Letter that is found in *Harcourt's Papers*, does further confirm Mr. *Oates* in all the great and considerable Matters that he says; That there was a Plot, That that Plot was called by the name of a Design, which was to be kept Close and Secret. And this is an Evidence that cannot Lye, For that Letter will never be got off, no more than the other Letter, that Mr. *Dugdale* speaks of about Sir *Edmund-bury Godfrey*.

And thus I leave it to you, Gentlemen. You have heard how many VVitnesses they have had for them, about Twenty-Four or Twenty-Five of one sort or another, You have heard what they apply their Testimony unto, to Convict Mr. *Oates* of Falshood in matter of Time, which was their principal Defence; That he was not here in *April* and *May*, and that he came not over with Sir *Thomas Preston*, and Sir *John Wornen*, and that *Ireland* was not here all *August*. You have heard what VVitnesses *Oates* is back'd withal, as to the time of his being here: and the Maid says, she saw *Ireland* here in *August*.

However, though their Defence depends but upon a point of Time: I must tell you, it ought to be well considered, for 'tis indeed very considerable towards their Defences, and God forbid but we should be equal to all men.

And so I have Remembred, as well as I can, in this long and perplexed Evidence, that which seems to me most material as to their Charge or Discharge; and that which they have made their greatest Defence by the Youth from St. *Omers* to disprove Mr. *Oates* his being here, and Mr. *Ireland's* not being in *London* in *August*, which is Truth is not the proper business of this Day, but hath received a former Verdict before: for if so be the Jury before had not been satisfied of the Truth of that, they could never have found *Ireland* Guilty. So I leave it to you upon the whole matter. I can remember nothing besides, Go together, and consider of your Verdict, according to your Evidence.

L. C. J. *Norib*. Gentlemen! My Lord hath repeated it so fully to you, that I shall not need to add any thing to it.

Then an Officer was sworn to keep the Jury, who withdrew, and the Judges also went off from the Bench leaving Mr. Recorder, and a competent number of Commissioners there to take the Verdict; and about the space of a quarter of an Hour, the Jury returned, and Answered to their Names, and gave in their Verdict thus.

Clerk of Crown. Gentlemen, Are you all Agreed of your Verdict? Omnes, Yes.

Cl. of Crown. VWho shall say for you?

Omnes. Foreman.

Cl. of the Cr. *Thomas White*, alias, *Whitebread*, hold up thy hand. You of the Jury, look upon the prisoner: How say you? Is he Guilty of the High Treason whereof he stands Indicted, or not Guilty?

Foreman Guilty.

Cl. of Cr. VWhat Goods or Chattels?

Foreman. None to our Knowledge:

And so severally of the Rest.

Which Verdict being Recorded in usual form, Mr. Recorder spoke to the Jury thus

Mr. Recorder, Gentlemen, You of the Jury; There hath been a long Evidence given against the Prisoners at the Bar. They were all Indicted, Arraigned, fairly Tried, & fully Heard, for High-Treason depending upon several Circumstances. They can none

of them pretend to say, (and I take the liberty to take notice of it, for the satisfaction of them, and all that are here present, and all the world) That not a Person among the Prisoners at the Bar, were either wanting to themselves to Offer, or the Court to them to hear any thing that they could say for themselves. But, upon a long Evidence, a full Discussing the Objections made against it, and a Patient Hearing of the Defence they made, they are found Guilty: And I do think, that every honest Man will say, That they are unexceptionably found so; and that 'tis a Just Verdict you have given.

And then the Prisoners were carryed back to Newgate, and the Court Adjourned till Eight next Morning. And then Mr. Langborne was Tryed, and found Guilty: After which, they were all Six brought to the Bar together, and received Judgment to be Drawn, Hanged, and Quartered: Which accordingly was done upon the Five Jesuits and Priests, on Fryday the Twentieth of June, at the usual Place of Execution.

FINIS.

Advertisement.

Mr. Recorder's speech before judgment, will be published at the End of Mr. Langhorn's Tryal; which is now in the Press, and will speedily come forth.